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UNIVERSITY OF ALBERTA

THE NEW JUVENILE JUSTICE: THE IMPACT OF THE YOUNG OFFENDERS ACT IN THE EDMONTON YOUTH COURT

BY

TRUDIE F. MILNER ©

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE
OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF SOCIOLOGY

EDMONTON, ALBERTA
(SPRING, 1991)

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SUBMITTED BY TRUDIE F. MILNER
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

Robert A. Silverman

Judith A. Golec

James Creechan

Bruce Ziff

Raymond Corrado

Date: March 22,1991

DEDICATION

For my husband, Tom who has stood by me through the best and worst of times always believing I would finish. For my daughter, Kathryn who gave me every good reason to complete this degree.

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ABSTRACT

The 1984 implementation of the Young Offenders Act (S. C. 1980-1983, c-110) signalled a dramatic shift in the Canadian approach to juvenile justice. Unlike its predecessor, the Juvenile Delinquents Act, which focused on a child welfare model, the new legislation is based on a justice model of court functioning. The system has expanded legal dimensions. Great emphasis is placed upon formality and uniformity in court proceedings. This research focuses on those differences between the Juvenile Delinquents Act and the Young Offenders Act which affect court proceedings in the Edmonton Youth Court, province of Alberta, Canada. It is a study that has baseline data and measures changes after the implementation of the new law. How youth are processed under the new Act and how judges handle courtroom proceedings after the YOA is of primary interest although they, too, are affected by the legislation. The findings show that while the Youth Court is conforming to many of the terms of the new law it has found ways to remain informal. As a group judges are making individual adaptations. Many of the changes mandated by the YOA were already underway before its proclamation and the court has developed its own structure and methods of dealing with youth.

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CHAPTER 1: INTRODUCTION AND OVERVIEW

I. Statement Of The Problem

In April 1984 Canada introduced new legislation the Young Offenders Act (S.C. 1980-1983, c-110)[1] to deal with young offenders. It replaced the Juvenile Delinquents Act[2] (R.S.C. 1970, Chap J-3) which had governed young persons in conflict with the law for the preceding seventy six years. Based on a different premise than the JDA, the implementation of the YOA signalled a dramatic shift in the Canadian approach to juvenile justice (Burrows, Hudson and Hornick, 1988). It introduced a system that was more formal and more legalistic. The new legislation will, no doubt, result in changes to juvenile court process and procedures that are both anticipated and unanticipated.

The purpose of this research is to examine the impact[3] of the new Young Offenders Act on the nature of courtroom proceedings in the Edmonton Youth Court, province of Alberta, Canada. The inquiry is twofold: 1) What does the change in legislation mean for the nature of courtroom proceedings? and 2) How do individual judges respond to the change in legislation?

The impetus for this investigation is the change in governing legislation from the Juvenile Delinquents Act to the Young Offenders

---

[1] Young Offenders Act will also be referred to as YOA throughout the text.

[2] Juvenile Delinquents Act will also be referred to as JDA throughout the text.

[3] Impact is defined as all of the policy related consequences of a decision. It is to be distinguished from aftermath and compliance. Aftermath refers to everything which takes place after an event while compliance is to knowingly obey or disobey rules.

Act. The new Act is a response to a dissatisfaction with a juvenile justice system which operated according to a *parens patriae* [4] philosophy. It represents the move away from a child welfare system and the move toward a more legalistic system. There are many similarities to the adult criminal justice system. The emphasis is on the responsibility and accountability of young persons for their actions and society's right to protection from these actions. Legal rights are safeguarded. More punitive sentences than under the JDA are mandated.

The proceedings of the Edmonton Youth Court under the Juvenile Delinquents Act were informal in nature. They were guided by the spirit of the governing legislation. A *parens patriae* philosophy was dominant. The new law paves the way for more formal proceedings and case processing. It is expected that the differences between pre- and post-YOA Edmonton court will be discernable.

The central thesis in this work is that the new legislation will produce changes in courtroom proceedings and the processing of cases for the Edmonton Youth Court; and that there will be a lack of uniformity in how individual judges respond to the new law. The YOA is federal legislation which does not consider the individual differences among the Canadian juvenile courts. It is a framework within which individual courts will work out where they have to make changes and where they do not given the state of their operations before the implementation of the new Act. Further individual judges may respond in different ways within this framework. One judge may well have run his/her courtroom in a manner unlike that of his/her colleagues. Their individual responses to the new Act may be quite different. Whether judges comply with the new law is not the central consideration. Rather how they respond is of primary interest. As there have been no studies of individual differences within key actor groups in the juvenile court this aspect of the project represents a unique contribution.

---

[4] *Parens patriae* means to act in place of parents or like parents.

This study focuses on those differences between the Juvenile Delinquents Act and the Young Offenders Act which affect court proceedings. It is a study that has baseline data and measures changes after the implementation of the new legislation. How juveniles are processed under the new Act and how judges handle courtroom proceedings after the YOA is of primary interest[5] although they, too, are affected by the legislation. Changes which affect the functioning of the police department, the prosecutor's office, the Legal Aid Society of Alberta, facilities for young persons or any other court-related agencies are not considered. Specific hypotheses concerning the functioning of the court are established and tested in the research.

To gain insight into how juveniles are handled, court proceedings before and after the Young Offenders Act are examined and described. Using a structured observation instrument information about each court hearing is recorded. Topical items included in the schedule cover the key elements in any court hearing.The research is exploratory in nature. Individual cases are tracked from first court appearance to final disposition.

---

[5] There is no attempt to compare judges before and after the YOA.

The initial observation period consisted of ten weeks. All youth who made a first appearance during this time and who were charged under the Criminal Code of Canada or the Young Offenders Act were included in the sample. Cases not disposed of in this initial time frame were tracked through to disposition.

A limited file study was conducted to obtain further information on the juvenile's date of birth, who was present in court, whether a lawyer acted for a youth, who the lawyer was, whether jurisdiction was ascertained, what charges were before the court, adjournment dates and outcomes and dispositions in particular cases. It also provided a cross-check on information gained in the observation phase of the research.

This study is expected to contribute to the literature on juvenile courts and that on the impact of policies on courts. It is particularly important because it is the first empirical examination to compare a Canadian court before and after the implementation of the new Young Offenders Act. The research will produce a large amount of descriptive data about the Edmonton court and how it functions under the new legislation. This investigation will also provide valuable information about where the court is making changes and where it is not. It will help to determine whether or not actors are conforming to the letter of the law as evidenced by formal proceedings or whether the court continues to operate in the spirit of the old legislation and maintain informal proceedings. These findings will provide valuable empirical data and direction for future research.

II. The Juvenile Court Before The Young Offenders Act

The development of a juvenile court in Canada was inextricably linked with changing social conditions in the 19th century[6]. There was "a general movement directed towards removing adolescents from the criminal law process and creating special programs for delinquents, dependent and neglected children" (Platt, 1969:10). A group of largely middle class women took on the task of reaching children before they became delinquent. Known as the child-savers movement, these individuals gained the support of legislators and legal personnel and the first court for children independent of adults was established in 1899 at Chicago. Other US states were quick to follow this initiative as were England, Ireland, Canada and later some European countries.

The new juvenile court was seen to embody hope and promise. It was a welcomed alternative to the adult criminal justice system. As one author notes "... the creation of the court is often characterized as a significant victory for enlightenment over the forces of oppression and ignorance" (Platt, 1969: 183). The emphasis was on individualized justice and the special needs of the child as opposed to the nature of his/her delinquent behavior.

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[6] Arnold Binder (1979) suggests that specific sociopolitical factors contributed to the development of the juvenile court. In particular the Industrial Revolution changed class structure and altered the family. Second, medical science concepts changed. A pathological conception of disease and the prevention of disease became dominant. This led to reform concerning neglected children.

The Canadian Juvenile Delinquents Act was the first nationwide legislation dealing with juvenile delinquency[7]. It was consolidated in the 1927 Revised Statutes of Canada and re-enacted in 1929. According to the new legislation delinquents were to be given care, custody and discipline by the court. They were to be viewed as misguided and/or misdirected children who needed help and special guidance. They were not criminals. Many were simply products of a bad environment. As one author has commented,

> The Juvenile Delinquents Act is legislation in the language and spirit of the first half of the century - the so called century of the child. It didn't spring into existence overnight. It was but a national expression of the rise of a specialized kind of justice designed for children in a number of widely dispersed areas in the world. The emphasis was on prevention and protection and it was felt that the only way to deal with crime was to improve the environment surrounding children.
>
> (Stewart, 1978:163)

The JDA embodied the 14th century philosophy of *parens patriae* . It became the basis for the juvenile court. The State was to provide guidance and support to juvenile delinquents. The *parens patriae* philosophy which has dominated the first three quarters of 20th century thinking on juvenile justice in Canada and elsewhere is based on three main postulates:

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[7] Both J.J. Kelso and W.L. Scott were active in drafting this legislation. Kelso was a news reporter who later became the Ontario Superintendent of Neglected and Dependent Children. Scott was a local master of the Supreme Court.

> 1 ....childhood is a period of dependency and risk in which supervision is essential for survival;
>
> 2. the family is of primary importance in the supervision of children, but the state should play a primary role in the education of the children and intervene forcefully whenever the family setting fails to provide adequate nurture, moral training or supervision; and
>
> 3. that when a child is at risk, the appropriate authority to decide what is in the child's best interest is a public hearing
>
> (Zimring ,1982: 31)

These postulates guided the court's day to day operations. Specifically, the operation of the juvenile court under the Juvenile Delinquents Act was based on a social welfare model of court functioning. According to the model, the social background of the person is a central consideration for the court; there is a lack of responsibility for one's behavior; criminal behavior is caused by factors beyond the control of the offender; neglected and delinquent children are lumped together; and, treatment is an important consideration in the decision-making process (Corrado, 1983). The proceedings were part of the treatment process. The goals of the juvenile court were treatment and rehabilitation.

III. The Young Offenders Act

The Juvenile Delinquents Act remained unchanged and in effect until April 1984 when the new Young Offenders Act was proclaimed in force. The Young Offenders Act[8] is based on the three principles of responsibility, accountability and protection of society (Wilson, 1982; Stauffer, 1981; Bala & Lilles, 1981). The focus is on the child's behavior not the child. The young person must assume responsibility for his/her actions. S/he must be accountable although in some instances to a lesser degree than their adult counterpart[9]. In addition, society has a right to be protected from the illegal behavior of young people.

The approach of the new legislation is formal and consequence-oriented while emphasizing the youth's right to the due process of law and the right to participate in decisions. Youth are afforded a special set of rights and freedoms - the right to legal counsel, the right to be heard, the right to the least possible interference and the right to be informed. Full rights under the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights are guaranteed.

The new Young Offenders Act is based on a justice model of court functioning. This is in sharp contrast to the social welfare model of courtroom functioning dominant under the JDA. A justice model is premised on the following: people are responsible and accountable for their actions; crime is a rational act; punishment should fit the crime; deterrence is important if future crime is to be prevented; and, all people are equal before the law. The emphasis is on the due process of law. As Ted Rubin (1976: 137) has succinctly summed up the current state of affairs: "The future is clear: law and due process are here to stay in juvenile court ... rehabilitation efforts will be pursued in a legal context".

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[8] The Juvenile Delinquents Act was replaced by the Federal Young Offenders Act. This act deals with those youths aged 12-18 who have violated the Criminal Code of Canada or the Narcotics Control Act (federal statutes). The provincial Young Offenders Act deals with youths aged 12-18 who violate provincial statutes like the Liquor Control Act and Wildlife Act.

[9] The provision for diminished responsibility due to immaturity and dependency suggests that the welfare philosophy is still present in the YOA (Corrado, 1983).

VI. Comparing The JDA and The YOA

The transition from the Juvenile Delinquents Act to the Young Offenders Act suggests many changes. It is worthwhile to outline and discuss the differences between the two Acts as they relate to courtroom proceedings because of the expanded legal dimensions of the new system and because these changes are likely to manifest themselves behaviorally.

A. The Court's Jurisdiction

Under the Juvenile Delinquents Act the court had jurisdiction over all those persons who were a minimum age of seven years and a maximum age as prescribed by each province[10]. The minimum age of seven years was established in conjunction with the provisions of the Criminal Code of Canada[11]. Under the Young Offenders Act the court has jurisdiction over young persons who are at least twelve years of age and less than eighteen years of age. Minimum and maximum age are uniform throughout the country[12]. This may mean that there are more cases before the Youth Court now than before.

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[10] Until 1935 the maximum age for both males and females appearing before the Alberta courts was sixteen. In 1935 the maximum age changed to eighteen. The year 1951 saw another change. Maximum age for males was established as sixteen while girls remained at eighteen. On the basis of the Canadian Bill of Rights this differential was challenged in 1976 as being discriminatory. The Alberta District Court found this situation to be not discriminatory. An appeal however resulted in a reversal of this decision. On September 27, 1978 sixteen was established as the maximum age for both sexes. This remained until April 1,1985 when under the YOA the maximum age of eighteen years was established throughout Canada.

The juvenile court's jurisdiction was intricately related to the issue of proof of age. Under the previous Act it was not sufficient for a child or counsel to state his/her age to establish jurisdiction[13]. Testimony of this nature was regarded as a kind of hearsay since the child could not recall his/her own birth. In the strictest sense the only person who could attest to age was the mother of the accused. A second important requirement for jurisdiction under the JDA (Section 10) was serving parents with notice of the court hearing. A 1959 Supreme Court decision established that serving notice on parents was critical for the court to establish jurisdiction but Canadian courts and even judges themselves varied in their interpretation of the rule.

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[11] It is important to note that the Alberta courts did not hear the cases of juveniles under 12 years of age before the new YOA was passed (Hackler, 1984: 53).

[12] Hackler (1984) reminds us that "past attempts to agree on a uniform age across Canada were not successful. The bureaucratic structures established to handle the different age levels were very difficult to modify. Canada has just adapted its own constitution, however and it does not permit discrimination along age lines. Therefore the juvenile age across Canada will be 18 with those provisions coming into force in 1985 as part of the new YOA" (Hackler, 1984: 48).

[13] Section 2(2) of the Juvenile Delinquents Act established this.

Under the Young Offenders Act requirements for proof of age are considerably broader. According to Section 2(1) a young person is "a person who is or in the absence of evidence to the contrary appears to be 12 years of age or more, but under 18 years". The Young Offenders Act deals with service of notice to parents in Section 9. Not only must a parent be notified of the court appearance but they must also be advised whenever a young person is arrested and detained. What is different about the provisions of the YOA from those of the JDA is that the Youth Court is empowered to order a parent to attend court if they are not present and the court feels that their presence would be helpful.

The change in court jurisdiction which has resulted from the implementation of the new legislation and the Canadian juvenile courts response to the 1959 experience suggest that the Edmonton Youth Court and the judges who preside over it may focus greater attention on the matter of jurisdiction. There may well be more hearings where jurisdiction is ascertained. Some judges may be concerned with this element of the new legislation while others may not.

The JDA created the special offence of "delinquency" and the special category "juvenile delinquent". According to Section 2(1) of the JDA juvenile delinquent "means any child who violates any provision of the Criminal Code or of any federal or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality of any similar form of vice". Committing any one of these offences constituted a delinquency. Offences which can be dealt with under the federal YOA are those which contravene any section of the Criminal Code and any federal statute. Provincial statute violations are dealt with under the provincial YOA (S.A. 1984 c. Y-1)[14].

B. Court Appearance

Once a youth appears in court the judge must inform him/her of the right to counsel (Section 11(3)). Under the new Act a young person has the right to a lawyer at every stage in the process. This right is provided independent of the wishes of the young person's parents. Under the JDA there were no provisions for this. Legal counsel was not provided as a matter of course but could be obtained if requested. Whether or not a juvenile had a lawyer varied from place to place and was largely dependent on individual judges. It is important to note however that if a juvenile faced a serious charge many judges would encourage legal advice be sought before a plea was entered (Bowker, 1986: 274). Further if a case went to trial under the JDA legal counsel could be made available and most juveniles were represented[15].

Although the right to counsel is secured for all youth and at all stages of the proceedings a young person is still dependent on an individual judge to advise him/her of this right. The provision for counsel under the Young Offenders Act suggests that there may well be delays in the processing of individual cases. Youth may require adjournments in order to obtain legal representation and the result may be court congestion. Further if the majority of youth choose to exercise this right and secure counsel, lawyers will become a key actor group in the Youth Court. Other personnel may be displaced.

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[14] Provincial statute violations include for example breaches of the Liquor Control Act, Motor Vehicle Act or the Wildlife Act.

[15] Lawyers who appeared in the juvenile court often experienced role conflict. It was difficult to reconcile the traditional adversarial role with a role which demanded that they act in the best interests of their child client (Erickson, 1975; Dootjes,1972).

A young person who is before the Youth Court is faced with a legal information[16] which must be answered to by pleading guilty or not guilty (Section 12). Under the Young Offenders Act the judge must explain the legal information, the right to plead and determine whether or not the young person understands all of this. In the past there was no such obligation upon the judge.

Despite the intention of the new legislation it is not entirely clear that all judges will necessarily explain the various elements of the plea process to youth who appear in court. There may well be variation among judges.

If a young person appears before the Court and is in detention then there may be an application for release (judicial interim release) by defense counsel[17]. Section 51 and 52 of the YOA make Criminal Code sections 457-459 which deal with release (or bail) relevant to the Youth Court. Certain factors are to be considered and the onus is on the Crown to demonstrate why a young person should be detained[18]. If bail is granted the judge may specify certain release conditions. This is in sharp contrast to the past legislation where under section 15 of the JDA bail was provided for but the procedure to be followed in bail hearings and the terms of a bail order were not specified. One might expect that there will now be more hearings where bail/detention are discussed than there were under the Juvenile Delinquents Act.

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[16] A legal information is a form prepared by the police which states the alleged offence and the Section of the Criminal Code of Code or other statue which has been violated.

[17] A youth may be represented by a duty counsel. This is a lawyer who is present during all proceedings in the courtroom where detention matters are heard to provide unrepresented juveniles with legal advice and assistance. A youth might also be represented by a legal aid lawyer - a lawyer who is a member of the Legal Aid Society and who has been retained by the youth on a Legal Aid certificate. S/he may also be represented by a privately retained lawyer.

In the past when a detained juvenile appeared before the court s/he was usually accompanied by a probation officer or a social worker. A defence counsel might also have been present. Under the YOA defense counsel and prosecutor have assumed the key actor roles at this stage of the proceedings. A probation officer and/or social worker might be present but do not play central roles. The result of this change is that there are likely to be more Crown prosecutors and defence lawyers participating in the youth court process after the implementation of the Young Offenders Act.

Court hearings as in the past remain separate from adult hearings however protecting youth from publicity has been handled differently. Under Section 12 of the JDA all trials took place without publicity. Neither the name of the child or the child's identity were to be indicated in a newspaper or other publication in Canada. The Young Offenders Act (Section 39) takes a different approach to public hearings and media reports. The Youth Court is open to the public and the media[19]. This principle is intended to ensure that there can be public scrutiny of the court and accountability in the juvenile justice process. As Bala & Lilles (1981: 289) write "the shift from *in camera* proceedings to open court is considered both necessary and desirable ... notably: to help maintain public confidence in the juvenile justice system: to safeguard the rights of young persons by conducting proceedings openly; and, to foster community awareness and involvement in juvenile corrections and justice".

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[18] A youth may be denied bail on the primary or secondary grounds. Bail is denied on the primary grounds when the court feels that detention is necessary to ensure the youth's appearance at the next court date. Bail is denied on the secondary grounds when the court feels that continued detention is in the public interest (CCC 457.7).

At the same time the court, in particular the judge, has the power to exclude people if it is in the interests of public morals, the maintenance of order or the administration of justice. If someone is to be excluded there are strict guidelines which must be followed. The anonymity of all young persons and children is to be preserved in any media reports concerning the court. This is similar to the procedure under the JDA. The YOA denies publication of a youth's name or the name of a child witness. The JDA also denied publication of the youth's parents name and his/her school. The YOA does not.

As under the JDA when a not guilty plea is entered a youth is afforded the right to a trial. Trials however are not private except in those circumstances noted above[20]. Trial proceedings are no longer as informal as the circumstances allow consistent with a due regard for the administration of justice. According to the YOA (Section 19 (2)) trials should assure that the due process of law is safeguarded and that youth are afforded the same benefits as adults. As before, trials are by Youth Court judge alone with no opportunity for a youth to be tried by jury.

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[19] In order for more than two media people to be present in court the judge's permission is required.

[20] There may be an application by defence and/or prosecutor at the start of the trial for the exclusion of witnesses until such time as they are called to testify in the proceedings

The provision for transfer hearings is preserved in the YOA (Section 16(1)). This allows a young person to be dealt with in an adult court in order to protect society. This provision, like that in the JDA (Section 9(1)) applies to serious indictable offences[21] which have been committed by young persons fourteen years of age and older. One exception, a twelve or thirteen year old may be transferred but only if the Crown obtains the consent of the Attorney-General of the province.

One important difference between the YOA and JDA concerns the authorization of transfers to the ordinary courts. Under the old Act the judge authorized all transfers. Under the YOA the Attorney-General or Crown agent, defence counsel or the accused may make a motion for transfer.

When making a transfer to the ordinary court[22], the YOA establishes that a judge must consider: the interests of society; needs of the young person, the seriousness of the offence, character of the young person, nature of the offence, prior record (Section 16(2)), etc. and the contents of a pre-disposition report[23] (Section 16(3)). A judge must state reasons for his/her decision. The repercussions of a decision to transfer are serious. It means a youth will be tried in the adult court and is subject to adult sentences.

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[21] supra n. 16.
[22] Ordinary court and adult court are used synonymously in the text.
[23] A pre-disposition report is a report prepared by a probation officer at the request of a judge. It must contain specific information and be

One of the central criticisms of the Juvenile Delinquents Act was that the dispositions were not determinate. Under Section 20(1) of the JDA a judge could take one or more of the following courses of action: a) suspend final disposition; b) adjourn the hearing or disposition for a definite or indefinite period of time; c) levy a $25.00 fine to be paid immediately or in installments; d) commit the child to the care and custody of the probation officer or some other acceptable person; e) place a juvenile on probation and allow him/her to remain at home; f) place the juvenile in a foster home which is under the probation officer's supervision; g) impose any other conditions which are seen to be appropriate; h) commit a juvenile to any children's aid society which is under the government's jurisdiction; or i) commit the juvenile to an industrial school which has been approved by the lieutenant-governor in council.

The range of dispositions under Section 20 of the Young Offenders Act is much narrower.. They include: 1) a maximum fine of $1,000.00[24]; 2) compensation and restitution to the victim of up to $1,000.00; 3) a community service order which is limited to a maximum of two hundred and forty hours of work to be completed

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made available to all participants. This report usually makes recommendations for disposition to the court.

[24] This is for an infraction of the Criminal Code. Under the provincial Young Offenders Act the maximum fine is $500.00.

within twelve months[25]; 4) a probation order with a two year maximum and specified mandatory conditions and other optional terms[26]; 5) open custody[27]; and 6) secure custody[28] or some combination of two or more dispositions(Section 20) They are intended to ensure responsibility and accountability, meet the needs of young persons, protect society and consider the rights of victims. The emphasis is on community based and determinate dispositions. The Youth Court retains its jurisdiction over the youth until such time as a disposition order is completed.

When a judge sentences a youth under the Young Offenders Act s/he must give reasons for the decision rendered (Section 20 (6)). As with other provisions of the new legislation what the law prescribes and what may in fact occur are likely to to differ. Despite the provisions of Section 20(6) which establishes that the youth court will, for the record of the case state its reasons for disposition judges may well give reasons for dispositions at different rates.

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[25] A community service order will usually be given if: a) the offence involved some loss of property or damage; b) the victim is not a private citizen; c) the victim does not wish to be compensated; and d) a beneficiary consents to the plan of action.

[26] Probation is for a maximum two year period. The mandatory conditions: keep the peace and be of good behavior, appear before the court as required and notify the court of any change of address, education, employment or training. Optional conditions which may be imposed are: report to a particular person, remain in a particular area, attend certain programs and anything else which the judge sees fit to impose.

[27] Open custody refers to a group home, a residential centre or wilderness camp or anything a province designates as such.

[28] Secure custody is a measure of last resort which can be imposed for a maximum period of three years under the federal YOA. Under the provincial YOA the maximum custody period for 16 and 17 year olds is six months. It is important to note that a temporary release from custody for rehabilitative or compassionate reasons can be granted. The Provincial Director may grant release for fifteen days or less for medical, rehabilitative or humanitarian reasons or s/he may grant a day parole for rehabilitative, educational or family activities.

It is important to note that under the YOA when the terms of a disposition order have been fully completed the youth is deemed to have not been found guilty or convicted of the offence (Section 36). This is especially true when the disclosure of having been convicted is in the interests of the administration of justice. Section 36 of the YOA states " it is not a complete prohibition on the subsequent use of a conviction under the YOA. For example, even after the completion of a disposition, a previous conviction may be used in subsequent transfer hearings, disposition and sentencing hearings and bail applications" (Bala & Lilles, 1984: 280).

Under the previous legislation a finding of delinquency and the rendering of a disposition could have serious consequences. In particular, there was no real protection from the consequences of a criminal record. The findings of the juvenile court could be used in adult court. There were no restrictions on who had access to the records of the juvenile court. The Young Offenders Act offers a protection from the consequences of a criminal record. The principles behind keeping records are to protect the privacy of young people, ensure the accountability of offenders and the effective administration of justice. The findings of the Youth Court may not be used against an individual in the adult court. There is restricted access to young persons' records and they are to be kept separate from those of adults (Sections 40-46).

One important provision of the Young Offenders Act concerns the destruction of records. Records can be destroyed when a young person is found to be innocent or when a disposition is satisfied and there are no repeat offences (Sections 40-44)[29]. Destruction also becomes mandatory "if, after becoming an adult, the young person secures a pardon under the *Criminal Records Act* , R.S. C. 1970 (1st Supp.) c.12" (Bala & Lilles, 1984:332). Under Section 45 of the YOA the effect of this destruction of records is that the youth can be said to have not committed any offence. To retain records when the preceding conditions exist is illegal. The effect of this provision is that the young person is deemed to have not committed the offence.

Under the Young Offenders Act a review of disposition is provided for (Sections 28-34). This is to ensure the continuing appropriateness of the original disposition rendered. If a new disposition is ordered after the review it cannot be harsher than the original disposition[30]. During a review proceeding representation can be made by the young person, his/her parents, the Attorney-General or his/her agent and the Provincial Director or his/her agent.

There are three types of reviews under the YOA: a review of a non-custodial disposition, review of a custodial disposition and a review for a failure to comply with the terms of an original disposition. A review of a non-custodial disposition may be made if the circumstances concerning this matter have changed; the youth is suffering adversely as a result of this disposition; it is impossible for the youth to comply with the disposition; or there are some other grounds which the court finds to be appropriate. In some cases progress reports may be required by the court to make an informed decision. This procedure may result in the same disposition as what was originally given, a termination of the disposition or some variation of it.

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[29] If a person is convicted of a summary offence (punishable by two years less a day under the Criminal Code of Canada) s/he has to remain uninvolved for two years to have their record destroyed. If a person is convicted of an indictable offence (punishable by more than two years) they must not be reinvolved for a five year period in order to have their criminal record destroyed.

[30] The one exception to this is if a youth is found guilty of non-compliance with a disposition order.

A review of a custodial disposition is mandatory after twelve months however there may be a review at six months or earlier if a young person makes substantial progress, circumstances change, new programs and services become available or on other grounds the court deems appropriate. A progress report is required for this type of review. Two possible outcomes of this are a change from secure to open custody or a release on a probation order.

To ensure that young persons fulfill the terms of disposition orders which the court makes there is a provision for a review if there is a failure to comply. A youth can be charged under YOA Section 33 if there is a willful attempt to not comply with the disposition or if there is an escape or attempted escape from custody. A court hearing will be held which may result in a varied disposition or the imposition of a new one[31].

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[31] Whenever there is a review for failure to comply and the youth is already under a custodial disposition then the maximum additional custody term which a judge can impose is six months.

The Juvenile Delinquents Act did not have a mandatory review clause. A juvenile could however be brought back to court until age twenty-one (Section 20(3)). It is important to note that Section 20(5) of the JDA stated that any review action was to be for the child's good and in the best interests of the community.

As was the case with a review of disposition, the JDA only allowed for appeals under very specific conditions. According to Section 37 only the judge could grant leave to appeal. The judge had to consider the appeal to be in the public interest or to ensure the proper administration of justice. Under Section 27 of the new Act a youth has the same right to appeal as an adult does. An appeal may be initiated whenever there has been a finding of guilt, there has been an order which dismisses a charge, a disposition has been rendered or a judge has on review found a youth guilty of failing to comply with a disposition order.

VII. Summary

The present research project examines the impact of the new Young Offenders Act on the nature of courtroom proceedings in the Edmonton Youth Court. The central thesis is that the Young Offenders Act will produce changes in courtroom proceedings and the processing of cases. The juvenile court will move away from informality and become more formal in its functioning. Judges will make individual adaptations to the new law.

This dissertation is organized into six chapters. The first chapter has provided an introduction and overview to the current investigation. The pre-YOA court and the Young Offenders Act were both described. The old and new legislation governing young offenders in Canada were compared to determine where changes might occur in the functioning of the court and the processing of cases through the system.

Chapter 2 is a review of the relevant literature which informs this study and our understanding of juvenile court proceedings. The studies discussed suggest possible directions of change for the Edmonton Youth Court with the implementation of the Young Offenders Act. Chapter 3 discusses the research questions which can be addressed by the data collected. Two specific groups of hypotheses are outlined- those which measure formality and those which measure lack of uniformity among judges. The baseline study is described in this chapter along with an account of the comparative study. Methods of analysis are discussed.

Chapters 4 and 5 present the results of this research. Chapter 4 contains the results for the test of the formality hypotheses along with an overview of the general observed differences between youth in the Edmonton court as it operated under the Juvenile Delinquents Act and youth in the Edmonton court after the implementation of the Young Offenders Act. Chapter 5 presents the results for the six lack of uniformity hypotheses tested in this study.

Chapter 6 provides a discussion and interpretation of the findings as well as a summary and conclusion. Directions for future research are outlined.

CHAPTER 2: REVIEW OF THE LITERATURE

I. Introduction

The implementation of the Young Offenders Act in the Edmonton Youth court suggests changes in the functioning of the court and the processing of cases through the system. Key actors including judges, prosecutors, defence counsel, youth workers and social workers are potentially faced with changing roles and relationships within the court system. As one author has noted, "some argue that we are in the second revolution in juvenile justice; some wonder whether the system will survive while still others are concerned that reforms which are based on theoretical and political extremes will only make things worse" (Corrado, 1983: 20).

Juvenile court research has traditionally been issue oriented. Among other things, it has focused on: the number of delinquents processed by the court; undetected delinquency (Short & Nye, 1958; Ericson & Empey, 1963); correlates of delinquency (Hindelang, Hirschi & Weiss, 1979); types and patterns of offences (Kobrin, Hellum & Peterson, 1980); and the treatment of juvenile offenders (Nejelski, 1976; Langley, Graves & Norris, 1972; Empey & Rabow, 1961). In Canada, studies have been similar in nature. Research has concentrated on the topics of victimization by juvenile offenders (Morton & West, 1980; Evans & Leger, 1979); self-report vs. official statistics of delinquency (Gomme, Morton & West, 1984; Weis, 1983); police processing of youth (Moyer, 1977; Grosman, 1975; Conly, 1977; Hackler, 1981; Hackler & Paranjape, 1983); treatment of juvenile female offenders (Geller, 1980); effects of probation (Byles & Maurice, 1979); the training school experience (Sinclair, 1965;

Tremblay, 1983; The Committee On Juvenile Delinquency, 1965); alternative programs (Doob, 1983; Gendreau & Ross, 1983); and recidivism (Nease, 1968). This work has been highly descriptive and principally factual in nature. It has drawn on empirical data and on the basis of this information conclusions about the people processed through the courts and the outcomes of cases have been reached. The approach tells us a great deal about the stages of the juvenile justice process but little about how legislative policies shape the court process and affect the functioning of the court on a day to day basis. In this research the organizational level of theory is adopted and its is this perspective as well as the pragmatic issue of the ability to collect the needed information which has guided the formulation of key research questions.

The research direction for the present study is guided by the advent of the new Young Offenders Act and by the existing theoretical and empirical literature on the topics of court structure, case processing and legislative change. Taken together this literature seeks to explain what happens to youth involved in the juvenile justice process. Three levels of theory can be identified within this literature- macro, middle range or organizational and individual. Macro-level theories focus on society-wide structures and process. In the juvenile justice field macro level theories help us to make sense of how, for example, political processes shape the development and eventual passage of juvenile justice legislation. Middle range theories focus on the role organizational context plays in explaining how the juvenile court functions on a day to day basis including how various key actors relate to youth. Finally, individual-level theories focus on how ideology influences key actors. Different people view their roles in different ways. This affects how they behave on a day to day basis.

II. The Discrepancy Between Doctrine And Operation

Juvenile justice policy research like juvenile court research has been descriptive in nature. Investigators in the 1960's and earlier examined the formal characteristics of the juvenile justice system. Discussions concerned how youth were processed through the system and focused on key decision points in the system. Studies described the stages of the court process in detail but failed to ask why certain patterns exist or why policies have the effect they do.

From the mid-1960's through the 1980's there has been a more critical examination of the North American juvenile justice system. In Canada the last twenty years has seen a plethora of information on the juvenile justice system. As Corrado (1983: 27) notes, "social scientists, legal scholars, the media and other observers of juvenile justice have subjected it to an unprecedented examination. Case studies, massive quantitative empirical projects, and government commissions have produced a detailed description of every discrepancy between the idealistic role embodied in the *parens patriae* or welfare-model system and its actual operation".

A major trend in the Canadian literature has been to demonstrate the discrepancy between *parens patriae* or the welfare model of court functioning and the actual operation of the court. Two examples of research which recognize the growing dissatisfaction with a system based on a *parens patriae* doctrine and the failure of the court to achieve the rehabilitative ideal are Bala and Clarke's (1981) The Child and The Law and Larry Wilson's (1982) Juvenile Courts in Canada.

Bala and Clarke's book (1981) The Child and The Law begins with a historical and contemporary discussion of childhood. It addresses all those aspects of the law which affect the Canadian child. Specifically, child custody, child protection and delinquency legislation as well as the issue of the child in society.

The research is particularly valuable because of its description of the philosophy and history of the Juvenile Delinquents Act. The authors elaborate in some detail the nature of the delinquency hearing and issues which relate to it. Specifically they explain that a proceeding commences once a legal information is sworn; if a juvenile is detained there is a right to a bail hearing; a parent and the child must receive "due notice" of the court hearing; and a parent has the right to be present in court. The juvenile court "has exclusive jurisdiction over all children charged with violating federal or provincial statutes, municipal by-laws or charged with sexual immorality or a similar form of vice" (Bala & Clarke, 1981:185). The definition of a child varies from one province to another.

Bala & Clarke note that all trials under the JDA took place without publicity. The media is banned from reporting anything about the trial which might somehow reveal the identity of the child. The Crown must prove a case beyond a reasonable doubt when the matter is at trial. A child is afforded all the defences of an adult as well as the special defences of physical and mental incapacity.

The ordinary rules of evidence apply at delinquency hearings. One matter which is often at issue is the admissibility of a child's testimony. Whenever a person under the age of 14 years is called as a witness the judge must determine whether s/he understands the nature of the oath and the moral obligation of having to tell the truth. Even when a judge decides to allow the testimony the court generally places less faith in it than would be the case with the testimony of an adult.

The JDA established that court proceedings may be as informal as the circumstances permit as long as there is a due regard for the administration of justice. The court may proceed in a less formal manner.

All court proceedings under the JDA are initiated when the accused is read the charge and asked to enter a plea. When the juvenile appears to be confused about the charge and how to plead the judge may offer an explanation. This is solely dependent on the individual judge.

Once a youth pleads guilty or is found guilty the judge has six options for dispositions. These include: suspend final disposition; fine up to $25.00; probation which includes supervision or other specified terms; committal to a foster home, group home or some appropriate person's care; committal to the care of the Children's Aid Society; or committal to a training school. Before deciding on any one of these the judge may request a pre-disposition report.

In those instances where the case is very serious a judge may decide to transfer the case to the ordinary courts. A child must be over the age of fourteen years, have committed an indictable offence and it must be for the good of the child and in the interests of the community that transfer take place.

Under the JDA the child's right to appeal is relatively narrow compared with that of an adult counterpart. It involves a reconsideration of the court transcript. Such an appeal requires special permission and is given only when it would be in the public interest or for the due administration of justice. An application must be made within thirty days from the date of disposition to a superior court judge.

Bala & Clarke (1981) devote a special section of their book to the role of legal counsel in the juvenile court. They point out that under the Canadian Bill of Rights a child is entitled to legal representation[1]. This has not been the case in the past although things are changing[2].

The proper role of counsel in this setting has been unclear (Erikson, 1975). Some would suggest that a lawyer in juvenile court is the same as one in the adult court. Others suggest that this adversarial approach is inconsistent with the purpose of the court. A lawyer should carefully consider what is in the child's best interest instead of the child's wishes. The debate is ongoing.

At the end of the discussion of the Juvenile Delinquents Act, Bala & Clarke discuss the growing dissatisfaction with a system based on a *parens patriae* doctrine. The three developments of non-intervention, diversion and the Young Offenders Act are identified as indicators of new approaches to juvenile crime. The Young Offenders Act is described as a response to the deficiencies in the Juvenile Delinquents Act and as consistent with a radical non-interventionalist philosophy[3]. The implementation of the YOA will mean that the courts will only deal with youth who violate federal statutes and the Criminal Code of Canada. The minimum age of youth before the court is raised from seven to twelve. Reforms will also come in the areas of "diversion, detention prior to court disposition, legal representation for children, admissibility of children's confessions, medical and psychological examinations, pre-disposition reports, the range of possible dispositions, review of disposition, records of convictions, and appeals" (Bala & Clarke, 1981: 212).

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[1] One of the biggest questions surrounding giving all youths legal representation is cost. Who will pay for this?

[2] The authors stated that most juveniles were represented before the Canadian Bill of Rights. They were referring here to the Ontario situation. This was not the case throughout all of Canada.

Bala & Clarke's (1981) book is highly descriptive and relies heavily on case examples from only one juvenile court jurisdiction in Canada[4]. The discussion of court proceedings under the JDA and an outline of where reforms are likely to occur with the implementation of the YOA allows this investigator to formulate a number of questions for the current research. First, if the courts only deal with youth who violate federal statutes and the Criminal Code of Canada will there be fewer cases before the court? Second, if the minimum age is raised from seven to twelve and the maximum age is set at eighteen will there be fewer youth before the court? Will judges ascertain jurisdiction more often given these new age ranges? Third, if only youth over the age of twelve appear in court will offences be more serious? Fourth, if youth are guaranteed the right to legal representation will the court process move more quickly or more slowly? Do judges ask youth if they wish to have legal counsel? If youth have the right to a lawyer at every stage of the process and this right is provided independent of the young person's parents are more youth represented than before? Are the lawyers from Legal Aid or privately retained?

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[3] Edwin Schur's (1973) idea of "radical non-intervention" is suggested as a way of improving presently inadequate methods of dealing with the delinquency problem. The courts have failed to adopt a concise definition of delinquency, dispositions are not clearly specified and much of what is described as treatment is in fact punishment. According to Schur (1973: 20) the adoption of a radical non-intervention approach to delinquency would necessarily narrow the scope of the juvenile court's jurisdiction. In particular, those laws which create status offences would be abolished. Ultimately this would lead to increased formalization within the court.

[4] While the authors do not suggest that their conclusions are universal it is unfortunate that many of the points made in the book do not apply everywhere in Canada. There are many differences in how each of the ten provinces handle juveniles.

In the past, pre-disposition reports were optional. Under the YOA they are mandatory for transfer and disposition hearings. Further, these reports were previously prepared by a probation officer and made available to the judge, prosecutor and lawyer. Parents were not given a copy. The YOA makes the report available to all participants. As a result, will judges be more concerned with who has and has not seen the report before court? Will judges solicit more comments and remarks from youth? From parents?

Dispositions are different under the YOA. They include: 1) a maximum fine of $1000.00; 2) compensation and restitution to the victim up to $1000.00; 3) a community service order which is limited to a maximum of 240 hours to be completed within twelve months;

4) probation order with a two year maximum, specified conditions and optional terms; 5) open custody; and 6) secure custody. Do judges impose many of the new dispositions or do they continue to rely on the dispositions mandated under the Juvenile Delinquents Act? Are there more reviews of disposition under the YOA? The new legislation provides for a review of disposition. The JDA did not have a mandatory review clause but the juvenile could be brought back to court until age twenty one.

Larry Wilson's 1982 book, Juvenile Courts In Canada is also legally oriented. The work is timely. It addresses the constitutional validity of the JDA, the trial process, the issues of jurisdiction, sentencing appeals, transfer to adult court and the current state of treatment strategies. Each topic is discussed in the context of the JDA or the *parens patriae* approach and then the YOA or the due process model. Case law as current as 1982 is included. This book is valuable because it is written in the context of the transition from the JDA to the YOA in the Canadian juvenile courts. Wilson points to the similarities and differences between the two pieces of legislation and suggests where changes may occur.

Wilson's discussion is guided by the assumption that although the YOA represents a change in philosophy "the jurisprudence of the preceding seventy years will continue to influence the course of juvenile justice in this country" (Wilson, 1982: iii). The author asks "Is it that new methods are not a solution but a reaction to dissatisfaction with existing structures?" The YOA only pays lip service to the problems of the past. Wilson(1982) argues that Canada's experiment with juvenile justice has virtually come to an end and many questions remain unanswered. We do not really know how we've failed. Judge Archambault (1986) would agree with the view adopted here which is that Canada's experiment with juvenile justice is far from over. In fact, unlike the position taken by Wilson, it is argued here that as the Young Offenders Act is implemented the experiment with juvenile justice is continuing. We must address both the new and old questions The answers to these questions may not be readily forthcoming.

The important issue which this book raises for the current study is that the language of the YOA is only suggestive it is not mandatory. The changes in courtroom proceedings which the YOA indicates may or may not occur. The key question is are the changes to court hearings which have been outlined in Chapter 1 occurring or does the court continue to operate in the same way? Are the changes *de facto* or *de jure*? Further, how are the changes effected? We cannot just look at what the legislation prescribes. We must look at the day to day operation of the courts if we are to understand how it works (West, 1984).

III. Legislating Change in the Juvenile Court: The Work of Edwin Lemert

As in Canada a critical examination of the US juvenile justice system began in the mid-1960's[5]. The American shift in research orientation coincided with the US Supreme Court decisions of Kent (1966) and Gault(1967)[6] which resulted in more complicated juvenile justice policy. There was an increasing focus on the latent

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[5] It is important to consider the American experience in juvenile justice because: 1) the late 19th century child-saving movements which led to the creation of the juvenile court in Canada and the US were a reaction to societal change in each country; 2) there has been an interchange of ideas between the two countries on the subject; and 3) juvenile justice systems in both countries emerge out of a

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"shared common-law tradition and are currently experiencing similar problems" (Corrado, 1983: 2).

[6] Gault (1967) established that: there must be proper advance notice of a scheduled court date which details the nature and type of charge so as to comply with the requirements of the due process of law; whenever there is the possibility that there will be a committal to an institution the youth and his/her parents must be made aware of the youth's right to legal counsel; juveniles like adults are afforded the privilege of not having to say anything incriminating; and, a youth has a right to cross-examine witnesses. Kent (1966) established "the minimum constitutional procedures for transferring juveniles to criminal courts" (Rubin, 1985:275). Winship (1970) established that when there is to be a finding of delinquency the proof required is proof beyond a reasonable doubt" while the McKiever (1971) decision held that jury trials are not mandated in the juvenile court. A juvenile does not have a constitutional right to a jury trial. These Supreme Court decisions greatly affect state laws concerning juvenile offenders.

functions of juvenile court policies[7], programs and innovations (Decker, 1984)[8].

The Gault decision handed down by the US Supreme Court on May 15, 1967 had a major impact on juvenile justice in America. It indicated a move away from a court based on social welfare model of court functioning to one based on a due process model. Although 1967 was a key turning point in the history of the juvenile court the questioning of the traditional court based on a *parens patriae* philosophy and the desire to move towards a new justice system for juveniles began much earlier. Many states had already initiated and implemented reforms prior to 1967.

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[7] Francis Allen (1964) discussed the latent functions of the juvenile court three years before the Gault decision was reached. He suggested that there must be concern over what the court tries to do and then what it actually does. Often its very operation has unintended and unanticipated consequences. He characterized the court as being complex in both theory and practice. It is called upon to perform welfare functions and to engage in criminal prosecutions. Allen suggests that to describe the juvenile court as performing a purely rehabilitative function is incorrect because there are many cases in which the court's main function "is the temporary incapacitation of children found to constitute a threat to the community's interest" (Allen, 1964: 53). In the author's view this led to a subversion of the due process of law. Allen's view was supported by the later work of Lefstein et al (1969) and Horowitz (1977) who assessed the total impact of the Gault decision.

[8] Two other key policy issues have received attention in the wake of this shift in research. First, the decriminalization of status offences. It is argued that status offences should be removed from the jurisdiction of the juvenile court because they confuse violations of the law with social problems. Second, the expansion of social control. Through evaluation, social scientists have looked specifically at the effects of diversion programs. Klein (1976a, 1976b, 1979); Klein et. al. (1976); Blomberg (1977, 1978, 1980) and Blomberg & Carabelo (1979) have shown that diversion in theory and in practice are two different things. Instead of reducing the court's jurisdiction as predicted, many diversion programs have resulted in greater social control.

It is important to consider the American literature on change in juvenile court legislation because it provides valuable information on how various courts have responded and because of the common roots of the US and Canadian juvenile courts. The bulk of the Canadian literature only speculates on where changes will occur as a result of the YOA and thus provide little guidance for the investigation at hand. It must be noted however that the impetus for many of the changes in the US which are discussed in the literature is the direct result of Supreme Court decisions in Gault, McKiever and Winship being imposed onto the lower juvenile courts. This is very different from the Canadian experience where change has been the result of ongoing debate and discussion, revision and review over two decades. Canadian policy makers have relied heavily on research in formulating the new young offenders legislation.

One of the earliest social scientists to report on the topic of legislating change in the juvenile court was Edwin M. Lemert. In "Legislating Change In The Juvenile Court" he considers changes to the California Juvenile Court Law which occurred in 1961. Most changes concerned the court's jurisdiction and procedure and aimed to give more civil rights to youth and their parents[9] however the major change in the Juvenile Court Law was that it became mandatory for juveniles to be advised of their right to counsel.

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[9] Lemert says that this law change is best viewed as a package of changes.

Lemert collected information on the change in the juvenile court through court observations and documentary materials and interviews with judges and probation officers in twenty five California counties. He found that the new legislation produced some basic structural changes. In particular more people (attorneys, public defenders, referees, traffic hearing officers, clerks, bailiffs, court reporters) were given official status within the court. According to Lemert this made the court more of a court and less of an administrative agency.

The introduction of new people into the court meant that administrative matters increased. For example, more time had to be spent setting judges' calendars and assigning counsel to particular cases. In general, the change in legislation served to accelerate the process of bureaucratization in the California courts. This resulted in reorganization. Those counties with courts that were non-bureaucratic before the change had the greatest difficulty adjusting to the legislative change.

Procedural change in law introduced lawyers into the courts. It gave them a place to operate and the opportunity to influence the court. The greatest majority of lawyers who appeared were assigned by the courts[10]. It is interesting to note that where there was a public defender present in court the juvenile's chance of getting a lawyer was greatly increased. Factors which influenced whether someone got counsel were the attitudes and values of judges, probation officers and referees and their interaction with the juvenile and his/her parent.

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[10] According to Lemert (1967) youth seventeen years old, who were Negro, Mexican or Other, of Mormon denomination and had fathers with professional managerial jobs were most likely to be represented.

Lawyers were found to have specific effects on the California court. First, having a lawyer usually meant that a youth got a more favorable disposition than someone who did not have counsel. Second, private lawyers were slightly more effective at getting a dismissal than a public defender. Third, attorneys strengthened the safeguards against removal of children from their home. Fourth, youth without lawyers were less likely to be detained. Also these same youth were less likely to be held for any period of time in juvenile hall pending disposition. Fifth, while counsel were likely to get dismissals they were more likely to be successful in reducing the total number or type of charges before the court. Finally, lawyers had a negative power to change case outcomes. Specifically, they threatened to contest the evidence before the court and slow down the process. The author suggests that this may well have led to plea bargaining with the prosecutor (Lemert, 1967). In general, Lemert found that lawyers were really at their best when they offered the courts positive alternatives to the probation officers recommendations or brought new information to the court's attention. They were also helpful when they convinced their clients to go along with a proposed disposition.

The implementation of the 1961 Juvenile Court Law created confusion and uncertainty. Roles were ambiguous and this resulted in structured conflict among probation officers, lawyers and judges. Further, a kind of asymmetry or imbalance in the adversary system developed. The law made no provisions for how the state was to be represented when a youth denied a charge. For example, a probation officer was not qualified to present the state's case. Consequently this task fell to the judge who then became the prosecutor. He had to present the case and then take up questioning of the accused to reach a final decision. This created considerable role conflict.

Overall, Lemert found that there was a great deal of anxiety over the changes initially but with time judges and court workers learned to live with them[11]. Many of the old ends could be accomplished through the new means. The author concluded that judges, probation officers, police, public defenders and prosecutors did not determine the form of the legislation but were the ones who worked it out on a day to day basis[12]. Lemert contends that the policy makers are not really watching the courts now that the legislation is in place. This is interesting from his perspective because a major change point was the decision-making of judges. Judges are the official interpreters and "makers" of the law. What happens when judges ignore the law? According to this author, if you want a predictable outcome from a change in legislation there must be discussion about the change and the opinions of those who are likely to be most affected by it must be sought.

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[11] It is interesting to note that before the actual change many of the judges were aware of what was being proposed and opposed the due process procedure. The judges who opposed the changes had served a long time on the bench. Interestingly many of them retired when the change was effected. The younger judges were in favor of the change.

[12] He notes that in early sociology Ward and Freund believed that social reform could be achieved through legislation. Later Sumner, Dicey, Pound and Bernard emphasized that the law had limited effectiveness or power to induce social change. Law depends on public opinion. In a post 1954 US Supreme Court decision on school desegregation people returned to the earlier view. Change does not have to be supported by public opinion.

Lemert's article about the change in California juvenile court legislation is very informative. It raises three interesting questions which can be answered by the current research because the new Young Offenders Act like the California Juvenile Court Law requires that youth be advised of the right to legal counsel and proposes changes to the jurisdiction and procedure of this court. First, at a general level it requires that we ask whether or not the court is actually implementing the changes while still considering the "special needs" of the young offender? Second, is the court conforming to the justice model of functioning embodied in the legislation while continuing to operate according to a child welfare model of court functioning? Third, has the implementation of the Young Offenders Act had any unintended consequences- consequences which are not prescribed? The Act prescribes minimum and maximum age limits, that lawyers will be present and that bail hearings will take place. Are there consequences other than these? For example, has the amount of time it takes to process a case become excessive? This is an important question for as Lemert has reminded us law change is a package of changes so it is hard to determine which change produced which result. Perhaps some of the possible effects have not been identified.

Lemert fails to describe in any detail what specific changes to jurisdiction and procedure the new Juvenile Court Law produced.

The work falls short in this regard. It does not allow us to formulate any testable propositions.

Further, Lemert focuses primarily on the impact of having to advise juveniles of their right to counsel in the California court. The YOA makes the same provision for counsel. The initial question which must be asked and can be answered by this study is "Has the implementation of the YOA put more lawyers in the courtroom?" Has the legislation paved the way for their entry into the courtroom? Are there more lawyers now than under the JDA? What Lemert investigates and which is beyond the parameters of this research is the effect lawyers have on the outcomes of individual cases? For example, do California youth with lawyers get more lenient dispositions than youth without? Do privately retained lawyers get dismissals more often than legal aid lawyers? Do youth with lawyers get sentenced to longer periods of detention? Do youth with lawyers spend longer periods in detention pending disposition than those without legal counsel? Finally, in how many California cases do lawyers get the total number and types of charges reduced for their child clients?

A final issue raised by the Lemert work concerns the response of individual actors to the change in legislation. The author noted that the greatest opponents to the new law were judges who had served on the juvenile court bench for a long time. Younger members of the bench favored the move toward a due process functioning of the court. While this finding leads to the questions of whether conformity to the YOA will be affected by the length of time a judge has served on the bench or whether more senior judges will oppose the change and not follow the terms of the new legislation and the role which ideology plays in understanding how individual actors respond to legislative change, they cannot be answered in this research given the organizational level of theory which has been adopted.

The role of ideology according to Stanley Cohen (1985) is essential to understanding variations in decision-making. Juvenile justice laws and organizational dynamics are only able to explain some variation in decision-making. The rest is explained by conflicting ideologies. Cohen has identified five ideological categories: pragmatists, disillusioned liberals, neo-conservatives (new right), anti-professionals and sentimental anarchists. The pragmatists see the key problems of an inefficient centralized juvenile justice system as a lack of practical discretion and clogging of the system by cases which are of a minor nature. This inefficiency compromises expediency and discredits perceptions of "justice". Minor cases should be filtered out of the system so that available resources could be used to deal with the "real business of crime control" (Cohen, 1985:128). Disillusioned liberals distrust the benevolence of liberal reformers and moral entrepreneurs which, in turn, lead to the abuse of civil and human rights. The group opposes closed institutions and the idea that you can "treat" delinquency, for example. They support a return to due process and "justice" considerations. Neo-conservatives or the new right as they are sometimes called share the disillusionment of the liberals but really see the decline and failure of a welfare orientation as something that we bound to come. Proponents of this view advocate that there should be reality and practical thinking. The focus of the courts should be on the "hard cases".

Anti-professionals question the system power monopolies which have developed from professional expertise-something regarded as myth by this group. The importance of schools, medical professionals, the field of psychology is not emphasized. Finally, sentimental anarchists adopt a radical non-intervention approach by the juvenile justice system with the view that court processing results in secondary deviance. It is believed that this approach will serve to avoid the creation of crime.

In 1970 Edwin Lemert published Social Action and Legal Change- Revolution Within The Juvenile Court. In this book he again focuses on the topic of change in the ideology and structure of the California courts. The macro-level of theory approach is significantly different from that of his previous article to merit review here.

Lemert has a twofold task in Social Action and Legal Change. He aims "to describe and account for what amounted to a small-scale revolution in the laws regulating the juvenile courts of the state, and to inquire into the consequences of this revolution for the practices in the courts and related agencies of law enforcement" (Lemert, 1970: 1). He addresses three central issues. First, how does procedural law develop over the long term? Second, under what conditions and by what processes does change in law occur? Third, how can social change be directed or controlled by legislative enactments? Lemert is also concerned with legal change and how this research can inform a theory of it. According to Lemert for a general sociological theory of law to be useful it has to include a study of legal procedure, the formal and informal organization of courts, administrative agencies and legislatures.

Lemert argues that attempts to develop a meaningful theoretical framework for research have been based on the idea that much legal development has been of an evolutionary nature. This suggests that there is a gradual build up or growth of rules over time. It is also seems to mean that there will be changes, discontinuities or "new departures" in legal ideas and practices (Lemert, 1970: 4). This is called revolution. Thus, "the ubiquity and stubbornness of resistance to radical legal changes suggests that, as a system or systems of law mature, conditions are created that make anything beyond minor adaptive alterations in the system unacceptable to those who are identified with them". Rules become reified. Judges and lawyers become accustomed to a court which operates according to this system of rules and are unwilling to change.

Edwin Lemert assumes that there are general similarities between the law and science. In light of any real theory of legal change he adopts Thomas Kuhn's (1970) theory of scientific revolutions[13] to law with some slight modifications[14]. First, Kuhn's theory sees a world made up of individuals who interact with one another. He does not acknowledge or account for the presence and impact of groups on the scientific enterprise. It is Lemert's contention that groups are very important in the legal reform process and they must be included in a theory of legal change.

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[13] Kuhn's theory of scientific revolutions is based on the concepts of paradigm 1, normal science, anomaly, crises, revolution and the emergence of a new paradigm, paradigm 2. A paradigm is simply defined as a current approach for dealing with the issues within a particular discipline. It offers a perspective on the subject matter. Research which is carried out in accordance with the paradigm is called "normal science". These investigations are based on past findings and contribute to the established literature. Achievements of normal science are recorded. An "anomaly" occurs when findings which are consistent with other research findings within the

A second modification is made on the basis of differences between scientific activity and social action. Scientific activity is concerned with facts, hypotheses and confirming and disconfirming hypotheses. Social action on the other hand is concerned with direct action or planned intervention into an ongoing process so as "to influence the order in which values of different groups are to be satisfied. The objective is to modify sequences of overt action through influencing decisions at points of power, rather than to change the values of groups and individuals participating in the decisions" (Lemert, 1970: 10)[15]. In general, social action occurs in

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paradigm are no longer able to adequately address the questions which have been posed by the existing framework or paradigm. Some of the anomalies which arise can be dealt with through modifications to the existing paradigm. Others however cannot be handled in this manner and can lead to crises within the framework. New theories emerge and when they do this leads to a shift in paradigms. Thus, paradigm 2.

[14] It is worthwhile to note that Lemert uses the notion of "paradigm" in a much more restricted sense than Kuhn does. For Kuhn paradigm was an over-arching explanation. Theories fall within the paradigm. They are tested and determined to be more or less true. Lemert does not employ this in his work. In fact, it is is the view of this author that what Lemert describes as a paradigmatic shift in the California juvenile court might be more appropriately described as a shift in orientation or in the theory of the juvenile court. Lemert seems to have reversed the Kuhnian notion of paradigm with that of theory.

[15] Social action takes an organized form.

the complex web of power relations which characterize contemporary American society. Groups attempt to bring about change through the state. Legislation and litigation are perceived as the two ways to induce social change[16]. According to this revised Kuhnian framework legal issues arise where there are conflicts of values and interests. Questions of fairness or the justice of some law or procedure are generally at issue. As issues build up over time and many interests are drawn in, a crisis in law is created. The law must either deal with these or risk becoming maladaptive. Inability to adapt will eventually lead to new laws.

Lemert argues that the first laws governing dependency, neglect and the criminal acts of juveniles developed at the same time that California was becoming a state. There were many false starts and questions were raised about how these laws might be put into effect. Clearly, the fact that Illinois had already established a juvenile court influenced the development of the California court and legislation governing young persons.

The period which followed the enactment of juvenile court law was characterized by "successive periods of administrative supervision [in which] three state departments- Charities and Corrections, Welfare, and the California Youth Authority [tried to hold] to their own conception of the law, an underlying philosophy, and to characteristic methods for gaining practical compliance or conformity with [their] goals" (Lemert, 1970: 32). The emergence of each body and their control of juvenile court procedure was integrally related to developments within the larger society[17]. The author labels this period as "the first revolution". Here, "normal law",a law based on an informal justice and which resulted in diverse court procedures throughout the state, dominated.

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[16] In the 1950's advocates who attempted to gain greater educational opportunities for American blacks argued on the basis of rather tenuous evidence that social change could be brought about through legal action. An opposing camp suggested that law change does not always produce the desired changes but it is likely to set the process in motion. A contradictory view suggested that law change may produce unintended consequences or lead to circumstances which are more negative than those which existed before the change.

Juvenile courts throughout California operated informally[18] and without any structured legal procedures[19] well through the 1940's. This is explained by the fact that most of the counties were small with relatively stable populations that developed their own ways of dealing with juvenile offenders. In the post World War II period juvenile justice experienced changes and there was general questioning of its purpose. The courts faced an increased caseload and became more like bureaucratic organizations.

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[17] Lemert says that the emergence of the California Youth Authority or CYA was linked to the fact that America became an administrative state in the post WWII period. California also moved in this direction. The CYA was one byproduct of this process.

[18] Lemert says that two measures of judicial informality are granting continuances and a lack of bail hearings.

[19] A lack of legal procedures is generally equated with juvenile courts which acted as child-welfare agencies. Other factors which may have influenced the lack of legal procedure are: 1) many of the judges were lay judges and thus had low levels of commitment to legal procedure; 2) few appeals were made and when they were findings generally served to support the court's broad jurisdiction; 3) probation officers and social workers were generally non-professionals; and 4) no lawyers acted in these courts.

The California Youth Authority played a key role in the development and eventual transformation of juvenile justice. They collected their own information and drew on probation service studies, a survey by the Stanford Law Review and special commission studies' recommendations for the reform of the juvenile justice system. They found a system based on a model of informal justice and one which had become disorganized. Specific anomalies developed about the juvenile court. Anomalies took the form of observations about the process and procedure of the court. For example, "if a judge was a kindly and deeply concerned father, why in juvenile court did he give so little time, often measured in minutes, to hearing cases?" (Lemert, 1970: 88). Over time many anomalies were identified. This was a prerequisite to change because anomalies must be recognized and made issues in order for there to be discussion and social action[20].

The major issues in the California juvenile court were the excessive detention of children, the absence of rules and policies governing the arrest and custody of juveniles, the legal rights of juveniles including the right to legal counsel, and how juvenile traffic issues were handled. On another level the issues of improving the salaries and work facilities for probation officers; removing conflicts and ambiguities in the present law which served to complicate probation officers jobs; and the possibility of giving more power to probation in relation to the court became part of the general discussion A juvenile justice commission was established in late 1957 to address these issues and to elicit the opinions of state and national authorities, interested professionals and the public. The committee's final report made thirty one recommendations and proposed a statute for the new law. The commission built support for its recommendations and proposed statute through promotional committees. Actual lobbying was done by an *ad hoc* group.

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[20] Social action can be thought to be synonymous with impact. According to Lemert (1970: 14) "...impact is defined as that which follows intervention into an ongoing process" and not as evaluative in nature. Impact research may take the form of evaluation. This is problematic because the circumstances surrounding the evaluation may be controversial and filled with conflict. Further a program being evaluated may be in the process of changing.

The proposal for change met with opposition from probation officers, judges and the police[21]. It became necessary for the commission to gain the cooperation of these groups. The commission accomplished this and social action succeeded.

The new law in California brought about many changes in the juvenile justice system. The juvenile court became more like the ordinary court. Administrative issues like scheduling judges, setting court calendars, arranging for lawyers to be present all became issues under the new system. Those counties that were less bureaucratized before the change had the greatest difficulty with the new court law and were least willing to move towards a more formal court. Some continued to operate according to the old model of court functioning. Another result of the change in law was role confusion and role conflict among attorneys, probation officers and judges.

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[21] It is important to recognize that there may be resistance to induced social change. Further there may well be unanticipated consequences when change occurs.

Lemert makes two important observations on the nature and consequences of changing the law. First, despite the move to a more formal system much of the work of the courts continued to be done on an informal basis. Second, any comprehensive change in law will necessarily have some oversights, points of conflicts and potential inconsistencies within it. In summing up Lemert suggests that his analysis of change in the California juvenile court law lends support to the idea that legal rules develop through a process of evolution and revolution. Specifically, "the events of change in the present case indicate strongly that there is a necessary or dialectical connection between the evolution of law and its revolution" (Lemert, 1970: 208). This connection is not guaranteed rather it must be established. Anomalies must develop as the law evolves and they must necessarily precede revolutionary change. The mere existence of anomalies is not enough to precipitate change. They must be recognized as being problematic. Further, legal revolution requires that people who favor new law be brought into the change movement.

Lemert found the Kuhn framework to be valuable for describing the change in juvenile court law but it left some questions unanswered. Kuhn maintained that with time scientists come to accept the new paradigm. Why then did people change their minds about revising the law over time? There was considerable opposition. Finally, Kuhn's perspective forces us to ask "Were the revisions [to the California juvenile court law] quantitative, based on a new conception of juvenile court or were they qualitative, a large number of changes built up over time?

The real contribution of the Lemert book is its attempt to develop a meaningful theoretical framework for the study of change in the ideology and structure of courts. He is successful in outlining how procedural law develops over the long term, under what conditions and by what processes change in law occurs and how social change can be directed or controlled by legislative enactments.

This work serves to inform the present study. It is valuable because it is concerned with legislative change in the juvenile court. Further, the development of the Young Offenders Act legislation in many ways parallels the development of the juvenile court law in California. In particular the YOA is also a response to a dissatisfaction with a system based on a *parens patriae* doctrine. Shortcomings of the previous legislation were identified, a review process which spanned two decades was initiated and various legislative proposals were made. The YOA proposal like the Juvenile Court law met with opposition. Eventually the Bill C-61 (YOA) was introduced in Parliament, amended and received third reading. It was then proclaimed in force.

Lemert's study raises two specific questions for the current research, only one of which can be answered given the guiding theoretical framework. First, has the implementation of the Young Offenders Act had any unintended consequences? The Act prescribes minimum and maximum age limits, that lawyers will be present, bail hearings will take place, etc. Are there consequences other than these? For example, has the amount of time it takes to process a case changed dramatically[22]? Given the premises of the justice model of court functioning which underlie the new YOA legislation one would expect the number of hearings it takes to process a case to increase. However the total amount of time (months) it takes to process a case should not be excessive. For example, in R. v. Askov the Supreme Court of Canada ruled that eight months for a youth to come to trial is considered excessive delay. Four months however was thought to be reasonable and the upper limit for delays. Are there more cases in the courts now than before? Second, has there been a radical shift within the justice system for youth? Is there a new pattern or is the enactment of the YOA a logical and positive response to the social, economic and legal factors which are paramount in these times? (Bowker, 1986: 274).

Lemert's work brings an interesting theoretical perspective to the topic of legal change. The adoption of Thomas Kuhn's notion of scientific revolutions is valuable for explaining the development of the law over time. It requires that one move through the past in order to understand where we currently are. This macro level theory approach gives insight to our current situation but fails to tell us what things we might expect after the new "paradigm" is adopted. Accordingly legal revolution appears to occur in some systematic fashion.. Can this process in fact be described as linear in nature?

Another difficulty with Lemert's adoption of the Kuhn model is that it assumes that once in place the new paradigm is acceptable. It may well be that the new paradigm is unacceptable to many. This framework is unable to account for the fact that when faced with change many legal actors continue to function in the same way as they did before the change[23]. As Lemert (1961) noted in an earlier article, many court personnel learn that they can accomplish their old ends through the new means.

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[22] In a footnote Lemert suggested that court congestion is one unanticipated consequence of change in court procedure.

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[23] In a recent article, Aultman and Wright (1982) have analyzed the shift from a treatment oriented juvenile justice system to a more legal type of institution in the context of Thomas Kuhn's model of change. They discuss the development of the juvenile court and the Juvenile Delinquents Act as characterizing the reformative paradigm. The system under this paradigm is based on a positivistic criminology and thus makes certain assumptions about delinquency. The focus is on the causes of delinquent behavior. People who adhere to the reformative paradigm are interested in changing behavior. The emphasis is on the explanation and control of delinquent behavior. Normal science under this paradigm is focused on assessing the cause of delinquent behavior and treatment becomes a primary area of research. The authors state that this normal science has been unable to solve the delinquency problem. This failure has created an anomaly which came to the forefront in the 1970's when the anomaly in the paradigm became more obvious and there was a reduced tolerance for positivistic anomalies. The new perspective, the "Fairness Paradigm" emerged. It emphasizes procedural safeguards, due process of law, fairness and deterrence. For a paradigmatic revolution there would be a need to restructure the legal order, the informal procedures and put mechanisms in place to ensure that fairness is a central concern. The authors conclude that the reformative paradigm has remained dominant. They reason that paradigms become unsatisfactory because they don't answer key questions but this doesn't mean that they are discarded outright. In addition, Aultman and Wright (1982) suggest that the fairness paradigm may be little threat to traditional philosophies about delinquent behavior because it ignores the behavioral questions which social scientists are most interested in. It is an ideological perspective which has refocused attention of legal issues as opposed to behavioral ones. It does not answer questions about the causes of delinquent behavior or the need for satisfactory treatment methods.

Edwin Lemert's study provides general theoretical guidance and a way of conceptualizing the current research problem. However given the organizational framework taken in this work, Lemert's approach is not adopted.

IV. The Implementation Of The Gault Decision

The implementation of the Gault decision signalled changes in the process and the procedure of the American juvenile court. Three principal studies, Lefstein, Stapleton and Teitelbaum (1969), Stapleton, Vaughn and Teitelbaum (1972) and Horowitz (1977) have explored the effects of this change in legal policy[24] on the juvenile court.

One of the first studies to look at the actual implementation of Gault in the American juvenile courts was that of Lefstein, Stapleton and Teitelbaum (1969). These researchers examined how three urban courts (Metro, Gotham and Zenith) responded to the decision. They considered what the decision required, what the courts had to do in the face of the decision, what was done and what problems arose in the process. Each of the three courts studied was located in a densely populated area and had a great number of petitions filed. The Zenith court was said to be more legalistic than Gotham and Metro which were viewed as traditional courts. Zenith had clearly specified adjudication and disposition procedures and a formal process for recording findings of delinquency. Four reasons were advanced for Zenith's legalistic nature. First, judges on the bench of this court had served for a relatively short period of time and so were not tied to any strong *parens patriae* traditions of the past. Second, a precise plea was taken at the arraignment hearing. These proceedings were very formal and usually a juvenile's rights were clarified here. Third, one and a half years before the Gault decision was rendered, the state enacted a statute requiring that upon request juveniles and parents be informed that counsel would be appointed if they were unable to afford it[25]. Fourth, Zenith was said to be more legalistic because there was a prosecutor present. There was no prosecutor in either Gotham or Metro.

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[24] A number of other researchers have also investigated the Gault decision.

As a compliance analysis this study made use of a middle range theory of juvenile justice. The central hypothesis was that courts would not comply with the new rules[26]. If they did they would prejudice the rights of the parties involved. The principle research method was participant observation[27]. Detailed notes on those aspects of the hearing which were considered to be of the most interest to investigators were recorded. Specifically fieldworkers were supposed to take notes on hearings that supported and discredited the hypothesis. Particular attention was given to the form and content of the language used by judges, lawyers and people involved in the case. Statements made by courtroom participants were recorded as close to verbatim as possible. To reduce error all notes were dictated into a tape recorder on the same day as they were taken.

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[25] In Gotham a youth could be represented at any and every stage of the proceedings. The court could, on a discretionary basis, assign a lawyer to ensure a fair hearing or if the youth was not able to afford one. A minor was also not required to testify at an adjudication hearing but the judge was under no obligation to inform him/her of it.

[26] In early 1966 observers had made notes on the delinquency cases in each city so that they would have baseline qualitative data on the impact of counsel.

[27] The authors acknowledge that there are three possible sources of bias in this research. First, human observers may expose themselves to the data or selectively perceive information. Attempts were made to prevent this from happening. Second, the sample is not truly representative but the researchers attempted to distribute the observations equally among the judges. Third, the presence of an observer often causes people to act differently than they normally would. The authors argued that people usually act more positively

Observation was carried out in the post-Gault decision period. In Zenith the observation was done in late May, June, July and August. In Gotham, June, July and August were the months of observation and in Metro data was collected in June and December of 1967 and January of 1968. Notes on one hundred and eighty eight court hearings involving two hundred and sixty eight youth were generated. The sample included youth aged nine to seventeen with the majority aged fifteen and sixteen. Ninety percent of the sample for Gotham and Zenith was black. In Metro forty two percent of the sample was white. Ninety two percent of the youth observed were male. Only the data for those youth charged with delinquency, subject to commitment at an institution and not represented by a lawyer were included in this study[28]. On the basis of official court decisions the final sample consisted of eighteen youth from Zenith, seventy one youth from Metro and fifty nine from Gotham.

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than negatively. Also, by the time of the actual study court observers had already been present for some time.

[28] The study is based on individuals as opposed to entire cases.

The researchers considered the court's compliance with three of the Gault decision principles. Specifically, the right to counsel, the privilege against self-incrimination and the right to confrontation. The first principle, right to counsel, requires that the juvenile and his/her parent be told of their right to counsel and that counsel be appointed if they are unable to afford such services. Counsel can only be withheld if the youth and parent validly waive this right. The court must be satisfied that this right is waived knowingly and intelligently. To determine the degree of compliance with this principle, the researchers examined initial court hearings at which the youth and parent appeared without a lawyer[29]. Of the total cases included in the final sample the relevant cases for each court were: Gotham - 59, Metro -71 and Zenith 18.

Lefstein et al. (1969) identified three degrees of compliance. In particular, full advice, partial advice and no advice. Full advice was said to be given when both the youth and parent were fully informed of the youth's right to counsel[30]. If as part of the overall explanation given by the court a youth and parent were told that a legal aid attorney would be made available to them the court was said to have complied with the principle. Zenith had the highest degree of compliance with the right to counsel principle. Full advice was given in 56% of all relevant cases. In Metro only 3% of youth were given full advice and in Gotham 0%. The court was said to give partial advice when some of the necessary elements of the explanation were missing. In Zenith this was found to be the case 38% of the time whereas in Metro this occurred 65% of the time and in Gotham 15% of the time. No advice was given to 6% of Zenith, 32% of Metro and 85% of Gotham youth[31].

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[29] In both Gotham and Metro a written notice in which "right to counsel" was mentioned was sent out prior to court. This was not thought to fulfill the requirements of the decision.
[30] In cases where the parent responded that s/he understood about the right to counsel but it was not clear that the youth understood this was defined as full advice.

The second principle which Lefstein et al. (1969) examined for compliance was the privilege against self-incrimination. The Gault decision held that the constitutional privilege against self-incrimination is applicable to juveniles in the same way that it applies to adults. If someone gives up this privilege then it must be properly waived. The investigators suggest that a person who appears without a lawyer should be informed of this privilege before anything is said. Lefstein et al. (1969) suggest that if the privilege against self-incrimination principle were followed exactly there would be no cases where the privilege was fully implemented.

The relevant cases to be considered in assessing the courts' compliance with this provision are: Gotham 53, Metro 62 and Zenith 6. The findings show that only two youth in Zenith were fully advised. In Metro 18 or 29% were advised while in 44 or 71% of the cases the privilege against self-incrimination was never mentioned. Even more dramatic were the findings in Gotham where not even a single mention of the privilege was found. Further the authors found that there had been very prejudicial communication in the Metro court. In only one case was there full non-prejudicial compliance.

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[31] How information is communicated to an accused was thought to influence whether or not a youth would exercise his right to counsel. The preceding data was broken down by this factor (prejudicial advice). In cases where less than full advice had been given prejudicial advice was given in almost all cases. Where full advice had been given only three cases involved prejudicial advice.

The third and final principle which Lefstein, Stapleton & Teitelbaum (1969) examined for compliance was the right to confrontation. This element of the Gault decision "secures an opportunity for the accused to cross-examine the witnesses against him" (Lefstein, Stapleton & Teitelbaum, 1969: 525). The objective was "to determine to what degree the action of the juvenile court judge in Gault, when he stated that the complainant did not have to be present, was unusual or whether it would occur even after the Supreme Court decision" (Lefstein et al. 1969: 526). The investigators assessed cases for three types of compliance. First, full confrontation. All witnesses in the case would have been present in court even if they were not testifying. Second, partial confrontation. Here, one or more witnesses would have been present in court whether testifying or not. Third, no confrontation. No essential witnesses would be present.

Relevant cases for consideration of compliance with this principle were: Zenith 7, Gotham 53 and Metro 62. In Zenith the researchers found that there was opportunity for full confrontation in three cases and no confrontation in four. This was explained as a function of the prosecutorial system which characterized the Zenith court. In such a system full confrontation is provided when there is a denial and no confrontation when a person admits guilt.

The right to confrontation principle was more fully complied with in the Gotham court than the other two Gault principles examined in this research. Specifically, in 20/53 cases there was full confrontation, partial confrontation in 16/53 and no confrontation in 17/53. In Metro there was full confrontation in only 14/62 cases. The majority of cases, 42/62, were characterized by partial confrontation. In only 6/62 was there no confrontation.

The general finding in the Lefstein et al. (1969) research is that there was widespread non-compliance to the three principles of the Gault decision examined. The greatest non-compliance was in the Gotham and Metro courts. The investigators explained these results by considering justifications for the lack of compliance. The first justification explored was guilty pleas. They suggest that traditionally most youth admit their guilt to the courts and so, as many have argued, the adversarial procedures embodied in Gault are unnecessary. This however is not argued by Lefstein et al. (1969) as an excuse for the courts not implementing the Gault decision but it is suggested as a possible explanation.

To test the hypothesis advanced Lefstein et al. (1969) explored each principle by the type of plea entered. All three courts were considered. They found that type of plea was not an explanation for non-compliance.and suggest that

> if in those cases where Gault's requirements were violated the courts' dispositions were probation or something less severe, it could be hypothesized that the judge somehow had decided in advance that there was no chance of incarceration, and that Gault's requirements therefore did not apply. Surely if none of the cases reported in this article had resulted in loss of liberty, this would be substantial mitigation of the sometimes flagrant disregard of constitutional rights.
>
> Lefstein et al. (1969:530)

Each of the three principles was again examined but with reference to the types of dispositions rendered. What the data clearly showed was that juveniles who received custodial dispositions were not afforded their full constitutional rights.

Lefstein, Stapleton and Teitelbaum (1969) suggested that one of the greatest difficulties in implementing Gault concerned the idea that juveniles and parents could waive their new constitutional rights. The Supreme Court assumed youth could waive their rights in an intelligent and objective manor. They also assumed that parents and children would agree on this and that parents would play a key role in this process. The Supreme Court seemed to forget that children, like adults, who appear in court are affected by certain demand characteristics. They are subject to suggestion[32]. In addition, court is an overwhelming experience where children are unlikely to understand the technicality of the language or the process which characterizes their hearings. The result of this according to Lefstein et al. (1969) is that it becomes very difficult to think that juveniles can knowingly and intelligently waive their rights.

Lefstein et al. (1969) conclude that many of the changes which the Gault decision brought about were already underway before May 15, 1967. Gault simply accelerated the change process. Resistance to the changes in juvenile court was said to be a function of individual actors ties to the *parens patriae* concepts of the past[33]. Compliance was influenced by the content of the new rules and people's ties to the old rules. Despite these findings Lefstein, Stapleton and Tietelbaum (1969) remain optimistic that with time there will be compliance with the Gault decision.

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[32] The authors note that lower class youths are more subject to suggestion to than any other group.

[33] Judges who had sat on the bench for the greatest number of years were the most resistant to change. The authors feel that as long as they are present changes in the juvenile court may be slow.

The reviewed research on the implementation of the Gault decision is the first empirical investigation of the Supreme Court decision and provides important data on how the juvenile courts did and did not comply. It is particularly significant that the researchers found there was widespread non-compliance and that compliance was influenced by the content of the new rules and people's ties to the old rules.

Although the current investigation is an impact study as opposed to a compliance analysis the Lefstein et al. (1969) work is important because it suggests that new rules such as those embodied in the new Young Offenders Act may or may not be implemented. From an organizational perspective, it forces us to ask whether or not the new Youth court is different from the juvenile court and how? Do the courts now function in the same way as they did under the Juvenile Delinquents Act are they different? Are judges in the Edmonton court effecting the changes or have they found ways to avoid making them? It becomes important to examine how individual judges conduct court proceedings. Are there differences among judges? At a micro level, the Lefstein et al. (1969) work raises the question of whether there is a relationship between length of time on the bench and how judges conduct their courts under the new legislation- a question beyond the parameters of the current investigation.

The Lefstein et al. (1969) work raises the same question the Lemert work did. Specifically, the investigators conclude that Gault served to accelerate the change and reform process which was already underway in the juvenile court. This supports Lemert's view that we must ask whether the revisions to the law are qualitative or quantitative?

The research reviewed suffers from a number of deficiencies including methodology, unit of analysis and the nature of analysis. The investigators used overt participant observation to study courts' compliance with the principles of the Gault decision. Notes were taken on areas of concern and those of theoretical interest. Particular attention was paid to the form and content of judges, lawyers and other key actors' language. At the end of the day notes were dictated into a tape recorder so that any possible error was reduced. Two criticisms of this approach arise. First, the only observation guide used by the fieldworkers to check the accuracy of note taking was a checklist. There was no structured observation instrument. One must question how adequate a checklist is to capture courtroom interaction. Second, the observers were to focus on the form and content of the courtroom interaction. Nowhere in the article do the authors operationalize what this means. As a result it is difficult to assess the validity and the reliability of the findings. Third, the fieldworkers were instructed to record information that either confirmed or disconfirmed the central research hypothesis. Fourth, the only mention of reliability checks was made with reference to dictating all notes into a tape recorder at the end of the day. How is this a reliability check? There is no evidence that there were ever any inter-coder reliability checks. This is viewed as problematic. A fifth problem with the methodology in this study is the time and length of the observation period. In Zenith observations were carried out in late May (post May 15, 1967), June, July and August while in Gotham this occurred in June, July and August. In Metro the observation period consisted of June, December and January, 1968. This is especially problematic. How are the findings a true indicator of the different degrees of compliance in the three courts? Are the results confounded by the differences in the time and length of observation periods?

To analyze the degree of compliance to three principles of the Gault decision the researchers drew on a subsample of 188 different court hearings involving 268 youth which fieldworkers had observed and taken notes on. No single case was followed from first hearing through to disposition. The information reported in this article is based on how individuals were treated as opposed to cases. The reader is unable to determine whether or not the degree of compliance is affected by the stage of proceedings. For example, is there greater compliance with the principles of Gault at the start of a case than at the end of a case? Perhaps if individual cases were tracked through the system the results of this study would have been different.

The general strategy for assessing compliance or non-compliance with a principle of Gault in this study was the same for each of the three principles: state the principle and then consider the actual practices of the courts. The first principle which the researchers investigated was the juvenile's right to legal counsel. To determine whether or not juveniles and parents were informed of this right researchers looked at initial court hearings when youth and parents appeared without a lawyer. Although this was intended to determine whether or not judges told youth and parents of their right to counsel there is no empirical evidence presented to indicate whether or not the number of lawyers actually increased after the Gault decision. In fact in footnote 12 of the article, Lefstein et al. (1967:498) write, "no effort was made in this study to determine whether the actual number of juveniles represented in the three juvenile courts was greater after the Gault decision although it is our definite impression that this is true". This is an interesting oversight. If there was full compliance with the decision then more juveniles would be represented by lawyers after Gault than before. Further it is my view that if the researchers had tracked cases from beginning to end they might have found different results. Perhaps some youth were informed of their right to counsel at times other than the initial hearing. It is significant to note that Justice Fortas in speaking for the majority in the Gault decision established that a juvenile is entitled to a lawyer at every stage of the proceedings not just the initial hearing.

A further criticism of the Lefstein, Stapleton and Teitelbaum(1969) work concerns their adoption of what Malcolm Feeley (1973: 407) has termed the "rational-goal model". This model concentrates on the formal goals of the organization, the formal rules and the inter-relationships of one rule to another. As Malcolm Feeley (1973:411) writes,

> Their basic approach was to outline the requirements and implications of the Gault and related decisions, and then identify the extent to which the actual practices of judges in various jurisdictions and types of cases conformed to them.

The rational goal model is problematic in three ways. First, it fails to consider those factors which affect individuals who are part of the court organization. Key actors are seen as either complying or not complying with the rules. The focus is on the rule recipient rather than the rule giver. This is problematic from a theoretical perspective. Second, it encourages a uni-dimensional picture of the justice process by placing almost exclusive emphasis on goals and rules. Third, the court's effectiveness in complying with rules and goals is the central consideration. The latent functions or side effects of rules are ignored.

The major finding of the Lefstein, Stapleton and Teitelbaum (1969) work is that there was widespread non-compliance with the Gault decision. After exploring several possible explanations for this they conclude that with time there will be compliance with the decision. In my view this is somewhat unrealistic. As Feeley (1973: 41) notes,

> While they have demonstrated quite convincingly that the Gault decision had a major impact on the administration of juvenile justice, their optimism regarding the eventual full compliance to the standards of that decision seems unwarranted.

The Stapleton, Vaughn and Teitelbaum research, In Defense of Youth: A Study of The Role of Counsel In American Juvenile Courts (1972) reports the findings of a three year experiment by The

National Council of Juvenile Courts to examine the role of legal counsel in delinquency hearings in two northern urban settings (Gotham and Zenith)[34]. The impetus for this investigation was the controversial Gault decision which extended to American youth the constitutional "right to counsel" in delinquency hearings[35]. Two general research questions guided this investigation. First, does the introduction of counsel affect dispositional outcomes in delinquency proceedings? Second, in what manner does counsel affect the conduct of hearings? How does the traditional juvenile court with its procedural informality react to the introduction of an adversarial role? (Stapleton et al., 1972: 49).

The main research strategy was an experimental design youth charged with delinquency were randomly placed in experimental and control groups. Individuals in the experimental group were assigned to lawyers with a caseload considerably lower than that of legal aid lawyers. The control group came from the same population but had regular legal services. Project lawyers prepared case reports which contained information about case preparation, defence theories and tactics, the kind and quality of contacts with clients and personal observations on the nature of the juvenile court system. These reports along with court records provided additional sources of data for the study.

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[34] The authors acknowledge that this necessarily limits the generalizability of the findings.

[35] The authors note that there has been great debate over whether or not lawyers should be present in juvenile court. Arguments against include: 1) it adds another person or agency to the court process; 2) lawyers will make the process more adversarial and this will interfere in the fact finding process; and 3) youths will be more likely to deny their guilt when there are lawyers present. Arguments in favor are: 1) lawyers are necessary for proper fact finding; 2) they ensure a regulated proceeding and communicate all relevant information to the court.

Youth were selected for inclusion in the sample on the basis of very specific criteria. These were: 1) Only official cases (delinquency petitions) were included[36]; 2) Males only; 3) Only youth who lived in the impoverished areas of the two cities[37] studied. Parents were asked to sign a statement to this effect; 4) No youth charged with homicide were included; 5) If the parent initiated the complaint these youth were excluded because of the parent's unwillingness for their children to have counsel; 6) The time between filing and court date was five days in Gotham and six in Zenith. Both custody and non-custody cases were included; 7) Any youth over 8 and up to 18 in Gotham and 17 in Zenith were included; 8) Multiple cases - if more than one youth was charged with the same offence only one was included in the study; 9) If a youth already had a lawyer he was excluded; 10) Boys in Gotham who had been referred to conference committees at intake were excluded; 11) Once a boy was excluded he was not later included because he moved to an impoverished area or met one of the other criteria.

The major finding in this research was that the effect of legal representation varies from one jurisdiction to another. In Zenith lawyers had a major impact on case outcomes whereas in Gotham there were no significant differences. Seven control variables

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[36] In Zenith cases involving "minors in need of supervision" were included.

[37] These areas were selected on the basis of the 1960 census data.

(identity of the judge, age, race, previous court experience, offence, number of petitions and home situation) were introduced. In Zenith, youth got the most favorable outcomes if they lived with both parents, appeared on a single petition and had no prior record. Regardless of race, being assigned to an experimental group produced a more lenient disposition. As for offence those in the experimental group got more favorable results than those in the control group. Lawyers seemed to have the greatest impact on property offences. The greatest experimental effects were observed among 14 and 15 year olds. The influence of judges seemed to vary by style and temperament. More favorable dispositions were achieved from four of six judges when lawyers were present. When the same control variables were introduced in Gotham no differences were found between control and experimental groups. Youth who had subsequent petitions, came from single parent families or committed crimes against the person, were more likely to be committed.

Three possible explanations were advanced for the observed differences. First, intake procedures were different in the two cities. In Zenith youth went through a double intake process while they did not in Gotham. Second, there was a difference in the number of petitions filed. More petitions were filed in Gotham. As noted earlier multiple petitions before the court made it more difficult to obtain a favorable outcome. Third, the performance of defence counsel and thus their impact was determined by the forum in which s/he functioned. Different organizational frameworks operated in the two cities. The authors view this as the most important of the three explanations advanced.

According to Stapleton et al. (1972) the criminal process is based on a conflict system where the strain is toward cooperation. Ideally, the juvenile court was a cooperative organization. The judge acted to determine how the youth could best be understood. Structures for resolving conflict were unnecessary. The Gault decision challenged the cooperative organization. Gotham remained the same in the face of Gault- it was traditional and thus more informal. Zenith was less traditional and more formal.

The organizational differences between Gotham and Zenith raised questions about the basis for decisions in each court. Project cases in Gotham were less contested than in Zenith. Straightforward denials at the time of plea in Zenith were greater (53%) than in Gotham (36%). Almost two thirds of all Gotham youth made a partial admission of guilt to their lawyer before a court appearance whereas in Zenith less than 50% did this. The authors contend that there was greater pressure by lawyers on Gotham youth to admit their guilt. In Zenith lawyers were more willing to enter a not guilty plea and make the State show its proof. This pattern also seemed to be related to the institutional structures of the two courts. In Gotham there were no separate plea taking hearings. There were usually no formal pleas. In Zenith there was much greater time for delay. Lawyers tended to get more dismissals as witnesses or complainants often did not appear in court.

Plea bargaining was a more important element in Zenith than in Gotham. This was intricately related to having a prosecutor present.

Finally, the use of motions was viewed as an indicator of legal remedies. In Zenith cases motions were filed 54% of the time as opposed to 12% in Gotham. Zenith lawyers made more "technical motions". In Gotham there was greater use of social reports (16%) than in Zenith (8.6%). Social reports were seen as a feature of traditional courts.

The Stapleton, Vaughn and Teitelbaum research is important because as R.D. Schwartz writes "... it provides a rare example of extremely precise observation concerning the effect of a change in legal policy" (op. cit., Stapleton, Vaughn & Teitelbaum, 1972: ix). There are few other studies which employ an experimental research design in assessing the impact of a change in law. The main contribution of this work is the discovery that the effect of legal representation varied from one place to another. The decision seemed to get worked out on a jurisdiction by jurisdiction basis. The authors suggested that the differences observed between the courts is a function of their different organizational frameworks. Specifically, prior to the Gault decision the juvenile courts were cooperative organizations. Structures for conflict resolution were unnecessary and inappropriate and did not exist. In the post-Gault decision period the emphasis was on the criminal process. Structures for conflict resolution became necessary and appropriate. Interestingly, the Gotham court remained informal while Zenith became formal. This is said to account for many of the observed differences between the two courts.

This study of the effect of legal counsel in the juvenile court raises two important questions for the current study. First, does the Edmonton Youth court operate the same way after the Young Offenders Act is implemented as it did under the Juvenile Delinquents Act? Has the day to day functioning changed? Second, the Young Offenders Act like the Gault decision prescribes that youth have the right to legal counsel at every stage of the proceedings. Are lawyers now present more often in the Edmonton court than they were in the past?

The explanatory framework which the authors have adopted to explain the differences between the Gotham and Zenith courts is valuable for the current study. Although this research does not investigate courts in two different cities it does look at two courts - one before the Young Offenders Act and one after. It could be argued that the Gotham court maybe similar to the Edmonton court prior to the Young Offenders Act. This leads to the empirical question- based on a *parens patriae* doctrine could the pre-YOA court be described as relatively informal in its functioning? The YOA represents a move to a more formalized model of court functioning. Is the post-YOA court formal? The emphasis is on the due process of law. This parallels the Zenith court.

Stapleton, Vaughn and Teitelbaum (1972) found five key differences between the traditional court of Gotham and the formal court of Zenith. First, in Gotham cases were less contested. There were a great number of guilty pleas entered. In Zenith there were more denials to charges with a greater desire to make the state prove its case. Second, in the traditional court there were less delays than in Zenith where there were many delays in the processing of cases. There were also more case dismissals in Zenith. Third, in Gotham there were no separate plea hearings while in Zenith there were. Fourth, less technical motions were filed in the traditional court than in the formal court. Fifth, there were more social reports before the Gotham court than the Zenith court.

If the logic advanced above is adopted then the differences between the Gotham and Zenith courts may well be found to exist between the pre-YOA and post-YOA Edmonton Youth court. The five key differences between Gotham and Zenith are summarized in Table 1. They raise interesting research questions for this study.

Another key finding of the Stapleton et al. (1972) work was that judges had an effect on how courtroom proceedings were conducted. The authors suggest that there were identifiable differences in the style and temperaments of individual judges. What they have failed to do is to operationalize "style" and "temperament" so that others might test this finding although it is concluded by this researcher that style and temperament speaks to the role ideology plays in understanding differences within a key actor group such as judges and focuses on individual level of theory. As a result of the implied theoretical orientation in the critiqued work we can only ask here if there are differences among judges in how they conduct their courtrooms and not how ideology accounts for those differences?

TABLE 1
CHARACTERISTICS OF INFORMAL JUVENILE COURTS VS FORMAL DUE PROCESS JUVENILE COURTS

	INFORMAL	FORMAL
Key Actors	1. Few Lawyers will be active	1. Lawyers will assume an active role in the process.
	2. Unlikely there will be a prosecutor.	2. Prosecutor will be present.
Case Processing	1. Cases will move from first court hearing to disposition in an expeditious manner.	1. There Will be more delays in case processing.
	2. Few contested cases.	2. More contested cases.
Hearings	1. Unlikely there will be separate plea herings	1. Separate plea hearings.
	2. There will be a lack of bail hearings.	2. There will be formal bail hearings.
Reports	1. Social reports on individuals juveniles who will be prepared for courts.	1. Fewer social will be prepared.
Motions	1. Few technical motions.	1. More technical motions.
Plea Bargaining	1. Unlikely to occur.	1. A major process.
Case Outcomes	1. Few case dismissals.	1. More case dismissals.

The Stapelton et al. (1972) work provides important data about how the "right to counsel" provision of the Gault decision was implemented in two urban centres. This is a strength because it explores this element indepth. The researchers have gone beyond description and engaged in multivariate analysis. This is also a weakness because it does not give us any information about how the other elements of the decision were implemented. The Gault decision addressed three other points. Specifically, the ruling established that there must be proper written advance notice of the scheduled court date which details the nature and type of charge so as to comply with the requirements of the due process of law. Second, juveniles like adults are afforded the privilege of not having to say anything incriminating. Third, a youth has a right to cross-examine witnesses. These were not investigated by the researchers in the study reviewed.

A second criticism of this work is that only males were included in the sample. One must ask how much this has affected the findings. Would the results be the same or different if females had been a part of this study?

The third principle work to address the implementation of the Gault decision is Donald Horowitz's (1977) "In Re Gault: On Courts Reforming Courts". This essay is part of a larger project on courts and social policy. The author addresses two issues. First, at the macro theoretical level what assumptions did the Supreme Court operate with in reaching the Gault decision and second, at the organizational level [illegible] has Gault been implemented? Horowitz looked at three elements of the Gault decision. Specifically, lawyers presence in juvenile courts, the juveniles' right to remain silent and the structural impact of the decision.

Horowitz does not view Gault as a revolution. It is best thought of as a change in the spirit of juvenile law as opposed to a change in legal rules. The Gault decision challenged the original juvenile court movement and in the process acted on some untested assumptions of its own (Horowitz, 1977: 172). He persuasively argues that the Supreme Court reached the Gault decision by acting on their knowledge of how court procedures affect juvenile delinquency[38]. In particular they seemed to have a specific idea of the juvenile court. They had definite ideas about the functions and behaviors of lawyers and what impact they would have on this court[39]. Further the Court had its own notions about the possibility of reform in the juvenile court[40]. These ideas were based on the high court's knowledge of the relation between juvenile courts and juvenile delinquency.

In Horowitz's view the Supreme Court relied heavily on the President's Crime Commission Report on Juvenile Delinquency and on a report by Wheeler and Cottrell (1966) in assessing the performance of juvenile courts in the US. On this basis, their view of the juvenile court can be summed up in the following way: 1) the court had been arbitrary and ineffective in controlling delinquency; 2) lawyers can make the court less arbitrary; 3) fair procedure may convey the message that the court is fair and this may help in the rehabilitation process; and 4) informality which characterizes juvenile courts is no longer tolerable. Each of these views shaped the final decision reached in Gault.

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[38] The Supreme Court was extremely concerned with crime and recidivism rates among juvenile offenders.

[39] They felt that lawyers would insist on regularized proceedings, advise youths of their right to silence and the privilege against self-incrimination.

[40] The high court did not view the juvenile court as an instrument of class or race discrimination but rather as an institution with good intentions gone wrong.

It is important to note that the process in Canada which led to the April 1984 proclamation of the Young Offenders Act was very different from the process which resulted in the Gault decision by the US Supreme Court. Specifically, the YOA was twenty four years in the making. It went through numerous revisions before taking effect. Many individuals including legal personnel, legislators, social scientists and legal scholars, actively participated in this process. Unlike the American experience in Gault the drafters of the YOA relied heavily on these people's input so that the final version of the YOA legislation represented the opinion of this collective and not simply one group of actors (i.e. judges). Further, the Canadians relied heavily on extensive research conducted on the juvenile justice system in Canada under the Juvenile Delinquents Act. As Corrado (1983) has reminded us there have been numerous case studies, quantitative empirical projects and government commissions which have addressed the current state of affairs. The impact of all the discussion and debate over a twenty four year period and the heavy reliance on research in creating the new Young Offenders Act is that many courts in Canada had already begun to make changes in their day to day operations well in advance of April 1984. Proclamation, in many cases, only served to accelerate the change process already underway in the Canadian juvenile court.

The Supreme Court assumed that a lawyer would protect people from self-incrimination and the arbitrariness of the process. They assumed that lawyers would mean greater formalization in court proceedings and "more contested dispositions" (Horowitz, 1977:185). Reviewing a number of relevant studies on the subject Horowitz writes that there are in fact less lawyers in court after Gault than originally expected[41]. He says that this finding demonstrates that imposing policy does not always guarantee that it will be put into effect or implemented in the way that legislators envisioned during its formulation. Horowitz (1977) also found after Gault that in those courts where lawyers were present things continued to operate according to the pre-Gault assumptions. The lawyer's role was constrained by the kind of structure in which s/he operated. Further many judges and lawyers had views of the relation of procedure to rehabilitation which were directly opposed to the view of the Supreme Court. This has been one of the biggest obstacles to implementing Gault.

The Gault decision paved the way for lawyers' presence in the juvenile court. With lawyers came prosecutors to handle and present cases. The addition of the prosecutor and lawyer put adversary tactics in place. A youth on the advice of his counsel may forego his rights, remain silent and thus put the state to the test of proving its case. The result- Gault conditioned the plea bargaining process[42].

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[41] There are different rates of representation for different offences.

[42] Many legislatures have created categories of lesser offences. This promotes bargaining. Reasons (1970) found that the number of serious charges in the Ohio court decreased after Gault.

Prosecutors do not wish to go to trial in every case and there is a strong desire to avoid crowded dockets. Bargaining is encouraged. It is therefore, reasonable to think that as the courts become more adversarial bargaining may well increase and there will be less formality because formal procedures and dispositions take longer. As Horowitz (1977:200) has noted "... the Supreme Court in Gault may well have traded in one set of issues for another".

There is no real data to suggest that the implementation of the right to silence principle of the Gault decision has been implemented in the way the Supreme Court intended. Lawyers often feel that they do not fully serve a client if they insist on all a youth's rights. Clients are often encouraged to admit their wrongdoing in those cases that are not going to trial[43].

In general, the American juvenile courts have been able to resist reform. Lawyers are not that common. In more adversarially-oriented juvenile courts, lawyers have created an environment favorable to negotiation not confrontation. In traditional courts lawyers have facilitated the communication of information. Gault has created a more uniform court procedure but there are great differences among the styles of courts and individual judges.

The Gault decision prescribed that certain principles be implemented in the juvenile court. It affected the work of the courts. The decision had structural impact. Specifically it encouraged the separation of those youth "in need of supervision" from those who do criminal acts. Second, it stimulated the diversion process. Third, it altered the delinquency adjudication process. A youth must now be found delinquent before he can be convicted.

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[43] Lawyers find themselves in a difficult position in the juvenile court because they must act as an interpreter between the client and the court. They must provide the judge with the youth's background information and other types of information. The Gault decision did not protect against the disclosure of this type of material.

Horowitz concludes his analysis of the Gault decision with a discussion of the ironies of judicial reform. The judges of the Supreme Court, seemed to assume that they were dealing with a homogeneous environment in making their decision. They took no account of the different styles of courts and judges. For example, judges and lawyers have really adapted to Gault more than they have pursued it to its full implications. Specifically, some courts have been able to minimize the presence of lawyers while others have absorbed the impact by channelling their activities in helpful directions. Lawyers have become mediators as opposed to adversaries. The emphasis is on negotiation not confrontation. The formal requirements of the decision encouraged informal arrangements. The "revolution" never happened.

Although intended as a procedural decision to affect the court and trial process Gault had many substantive effects which brought about structural changes. It stimulated diversion and encouraged the decriminalization of status offences. In fact, some of the greatest impact has been felt on agencies and elements outside the court. The Supreme Court underestimated this.

The Horowitz work is important because it focuses our attention on the assumptions which the Supreme Court operated under in reaching a decision in the Gault case. It reminds us that policies often produce results which are contrary to those which were originally intended. Finally, this work establishes that it is not lack of compliance which is critical but rather mode of compliance.

The discussion of the Gault case raises a number of questions for the current investigation. Although the focus of the present research is not on the assumptions of legislators in formulating the Young Offenders Act (a macro level approach) , the Horowitz work encourages us to ask how the policy is being implemented in the Edmonton Youth Court. We cannot just look at what the legislation prescribes we must look at the day to day operations of the courts if we are to understand how they work. Are the changes *de facto* or *de jure*? Is the court operating according to an adversarial model or does it continue to operate informally? Are there any unintended consequences? The Young Offenders Act is federal legislation formulated in response to a dissatisfaction with the Juvenile Delinquents Act and directed towards number of different courts in Canada. Therefore, what impact will the change have on the functioning of individual courts? How do individual judges respond to the change in law? Are there differences between one Youth court and another in Edmonton?

Horowitz's (1977) investigation found as Lefstein et al. (1969) and Stapelton et al. (1972) did, that Gault had less impact than what was expected. For example, there were fewer lawyers after Gault than what was predicted. There was also more plea bargaining than confrontation. The YOA secures the introduction of lawyers into the Edmonton youth court. Are there more lawyers now that the Young Offenders Act has been implemented? Are there different rates of representation?

Horowitz has noted that many legislatures have created categories of lesser offences. This promotes bargaining. Under the YOA all offences which contravene a section of the Criminal Code and any federal statute can be dealt with by the Youth Court. The Criminal Code of Canada includes categories of lesser offences. If pleading to lesser offences is an indicator of plea bargaining then is there more bargaining under the YOA than under the JDA? Is there greater emphasis on plea bargaining?

V. Studies Of The Juvenile Court In Canada

There is little written about the juvenile court in Canada. The release of the Bala and Corrado's initial report Juvenile Justice In Canada: A Comparative Study (1985) from the "National Study On The Functioning Of The Juvenile Court"[44] provides insights into juvenile court proceedings in Halifax, Montreal, Winnipeg, Edmonton and Vancouver under the Juvenile Delinquents Act. They report on the major stages of the juvenile justice process, provide comparisons of the statutory jurisdiction of the courts in each province, consider the personnel and facilities at each court location and analyze the court process from the point of first police contact through to final disposition.

Of particular interest for the present study is Bala and Corrado's discussion of juvenile court hearings in Edmonton prior to the implementation of the new Young Offenders Act. It provides important baseline data on how the court functioned under the Juvenile Delinquents Act and makes it possible to formulate questions for the current study about where change may occur under the new legislation.

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[44] The National study was conducted to collect baseline data on the juvenile court prior to the implementation of the YOA. Research teams in six cities observed courtroom proceedings, tracking cases from first appearance through final disposition. Observers completed a structured observation schedule for each hearing observed.

During the initial ten week observation period of the National study two hundred and fifty cases involving five hundred and eighty four hearings were observed in the Edmonton juvenile court. Youth in the study ranged from twelve to fifteen years of age, 75.6% were male and 24.4% female. Eighty two percent of the youth were white, 14% Native Canadian and 3.9% were other visible minorities. The majority (66%) had no prior criminal record.

Prosecutors were active in the Edmonton courts with full-time Crown Attorneys handling a large number of the cases. Non-uniformed police officers handled first appearances, bail hearings and uncontested guilty pleas. It is important to note that when cases were brought back to court for a rehearing or a review pursuant to Section 20(3) of the Juvenile Delinquents Act a probation officer acted as the prosecutor.

Most youth in the sample had some sort of legal representation. In fact only 28% of young persons never had representation of any sort- no duty counsel, no legal aid lawyer or retained counsel. Twenty nine percent had either a duty counsel or retained representative at all hearings. This means that they might have had a duty counsel at a first hearing and then retained a lawyer on their own or on a Legal Aid certificate for later hearings. The remaining 44% of juveniles had some combination of retained counsel or no representation. Specifically, they may have had no lawyer at a first appearance but then had a legal aid or privately retained lawyer at another. Based on a small N, the number of native juveniles who never had any sort of lawyer was lower (17%) than for their white counterparts (34%)[45]. Natives also had "other/retained counsel" more often than whites (38% vs 26%). No differences were found in the combination of retained counsel or no representation category.

Not surprisingly those youth with prior involvement were the most likely to have a lawyer acting on their behalf. It is important to note however that the only time the number of prior findings of delinquency was related to whether a juvenile had a lawyer was when there was no prior finding of delinquency. Specifically, one third of those persons in the sample who had no prior finding also never had a lawyer.

The length of time (number of hearings) to move a case from first hearing through to disposition varied from case to case however the majority of cases (62%) were completed in one to two hearings. No one case took more than ten hearings to complete.

Although difficult to learn about in any exact terms both prosecutors and defence counsel acknowledged that plea bargaining was a common phenomenon. Bala and Corrado (1985) point out that plea bargaining only occurred when a youth was represented by counsel.

Very few juveniles had their cases set down for trial. Specifically only 4% of the 250 youth in the Edmonton court had a trial on at least one sample charge. Bail hearings did occur in Edmonton juvenile court but they were not formal. When detention was discussed in the course of hearing it was usually done on an informal basis.

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[45] Chi-square was not statistically significant.

What is particularly striking about Bala and Corrado's (1985) report is it establishes that although all juvenile courts studied operated within the same legislative framework, the Juvenile Delinquents Act, there was great variation in how the individual courts actually functioned. As the authors themselves note,

> there were many local juvenile justice systems which shared certain common characteristics, but also differed from one another in many respects... The juvenile justice system in Canada was complex, not only because of the number and variety of personnel, and the nature of the legal phenomenon, but also because of legislative, organizational and philosophical variations between courts
>
> (Bala and Corrado, 1985:146-147)

These great variations suggest that the Young Offenders Act is likely to have different impact in different geographical areas.

The description of the Edmonton court presented raises a number of questions for the current investigation. Specifically, are there more Crown prosecutors active in the court after the YOA? Are more youth represented after the YOA? Are there any differences in the number of white youth and Native Canadian youth who have counsel? Are youth with prior records still more likely to have legal counsel than those who have no prior record? Has the time it takes to process a case changed? Is there more plea bargaining under the

YOA? Are there more cases adjourned for trial after the YOA? Is detention/bail discussed at more court hearings after the YOA?

VI. The Impact Of The Young Offenders Act

The recent proclamation of the Young Offenders Act has meant that little has been written about the change in legislation in Canada and in particular Alberta[46]. In an unpublished paper however Gabor, Greene and McCormick (1985) describe and discuss those changes in courtroom hearings and related services which the Young Offenders Act brought about in the Alberta courts during its first year in force. The thrust of the paper is that "the law provides a framework within which policies and practices can be implemented; however the structure is general enough to allow implementation to take a variety of forms" (Gabor et al., 1985: 1).

During late March and early April 1985 telephone and personal interviews were conducted with 13/15 of the full-time Family and Youth Division judges of Alberta and a non-random sample of people[47] in a variety of organizations which provide services to young offenders. They were asked about the impact of the YOA on the court and services. Under the topic of the legislation's impact on the court, interviewees were asked about the "accountability-special needs dimension" of the YOA, custodial dispositions and non-custodial dispositions and the "rights dimension". The purpose in asking about the accountability-special needs dimension was to assess judges views about the balance between accountability and special needs. The investigators asked judges if they had changed their attitudes towards sentencing since April 1984. Half of the sample reported no change. They believed in the treatment orientation of the past but had always stressed responsibility. The remainder of the judges said that they now stressed responsibility more. Most had no problem with the new emphasis on responsibility but two concerns were expressed. First, the Court of Appeal was placing too much importance on accountability. Second, one judge felt that too much emphasis on accountability might make custodial facilities into "warehouses".

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[46] Through personal communication I learned that the John Howard Society of Edmonton engaged in an observation study of the Edmonton court between June 14 and August 27, 1984. Their goal was to draw some conclusions about the new YOA.

[47] The people interviewed were all at the management level.

Judges were asked whether they thought 17 year olds should be treated the same as adults and then whether 17 year olds should be treated differently from 12 year olds. The majority of judges thought that 17 year olds should be treated the same way as other juveniles. They deserve to have their needs recognized. A minority of judges said that the YOA made them treat all young offenders the way adults are treated. Judges who said that they treated 17 year olds differently from adults also said that 17 year olds should take more responsibility than 12 year olds for their actions. They noted that this would be a factor in passing sentence.

Judges of the Family and Youth Division of the Alberta courts were asked three questions concerning custodial dispositions. First, how closely they equated custody dispositions under the YOA with committal to the Director of Child Welfare under the old? Second, is custody mostly treatment or is it a form of punishment? Third, is sentencing strategy for youth with no home different than those strategies generally used under the YOA? Most judges were ambivalent about equating custody dispositions under the YOA with committal to the Director of Child Welfare under the JDA. A number said that the YOA should not be used as a substitute for the Child Welfare Act. Under the JDA committal was legitimate. The YOA focuses on criminal issues.

The majority of judges stressed custody as being a form of treatment although custody under the YOA was said to have more of a punishment aspect than committal to the Director of Child Welfare did. Two judges saw custody as mostly punishment and two said it would depend on the program which the youth was put into. One judge who emphasized the treatment element of custody said that he had no control over where a youth would be placed so a judges' intentions concerning punishment or treatment wouldn't affect case handling[48]. Second, judges also noted that although they were trying to take treatment and rehabilitation needs into account the Court of Appeal was focusing more on the nature of the offence.

Three quarters of the judges said that their sentencing strategy for youth with no homes was different from those strategies generally used under the YOA but they had difficulty with this because the legislation establishes that it should not be different. Judges said that many prosecutors and defence counsel encouraged them to take the "home situation" into account in reaching a suitable disposition[49].

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[48] Most judges said that although beds were available in custodial settings the programs were not adequate. It is worthwhile to note that under the YOA custodial settings are run by the Solicitor-General. Under the JDA they were run by the Department of Social Services.

Under the topic of non-custodial dispositions judges were asked about their use of alternative measures[50], community service orders and combination orders. Half of the judges said that under the YOA they had increased their use of community service orders. Judges who hadn't said that they had been using them before the new legislation and the YOA simply encouraged them to continue doing so. The others said that the Act did not make their use mandatory. Three judges said they used combination orders more now than in the past.

Three views of probation services were expressed. One group of judges said that they had inadequate information about probation to be able to express an opinion. Another group said that probation services were adequate and a third group that said they were inadequate[51].

Generally observations which the judges made concerned caseload and reviews of dispositions. Most judges reported that they now had a lower caseload. One said the caseload was higher and several said there had been no change. Judges thought the explanation for this was the number of charges the police were laying. Half the judges said that the police were laying fewer charges because of the increased paperwork which the YOA had brought about. The judge who said that his caseload had increased thought that the police were laying more charges. Most judges reported that they had not had any reviews pursuant to Section 33 of the YOA.

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[49] Several judges noted that the Court of Appeal has a different view of this matter.

[50] Judges had no definite thoughts on alternative measures because they were not in effect at the time of the study. They thought that the success of these measures would depend on how they were implemented.

[51] A heavy caseload for probation officers was seen as the culprit for the ineffectiveness.

The second aspect of the Young Offenders Act impact on courts which the researchers investigated was the rights dimension. Under the new legislation there is more emphasis on the youth's rights. The impact of the new emphasis was anticipated in three areas. First, there would be increasing attention paid to these rights in the courts. Second, the right to counsel would be emphasized and this in turn would affect the workload of the court. Third, the new rights dimensions was expected to change the kinds of issues which arose in court.

Judges were initially asked whether they thought the rights of young people were being respected by the police, the legal profession, the courts and probation. Most judges felt that due respect was being paid to the young person's rights. One judge thought however that probation services was not complying with his orders while another thought that a justice of the peace was not holding hearings at night. A third judge believed that some policemen might be trying to get youth away from their parents for questioning. All of these things were seen as violations of the youth's rights.

With one exception, all judges said that there had been a change in the number of youth represented by counsel since the implementation of the Act in April 1984. Most judges described the increase as great. Two interviewees also said that there had been a great increase in the number of "not guilty" pleas. One judge thought that this was related to the number of "hungry" legal aid lawyers. Other judges said the not guilty pleas created more opportunities for plea bargaining[52].

Three quarters of the judges said that there had been an increase in the average time which each case takes to be completed[53]. Most judges said that this was related to the increase in legal representation of youth.

All judges agreed that when the upper age limit of 18 was effected in April 1985 their workload would increase[54]. All but two said the workload would increase substantially. They also expected that there would be certain qualitative changes in their court. Specifically, the kinds of offences which sixteen and seventeen year olds commit will be different than those of younger offenders. It is interesting to note that when asked about the presence of legal counsel and changes in the court's workload judges were still concerned that juveniles understand what occurs at a given hearing. The investigators suggest that this indicates that the rehabilitation approach persists.

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[52] Two judges perceived an increase in plea bargaining.

[53] Only one judge said that the time per case had decreased because of the ability of lawyers to expedite the process.

[54] Gabor et al (1985: 17) write that "in 1983, the charge rates of juveniles for federal statutes were generally about four times as great in the provinces where the maximum age was set at under 18, as in the provinces where the maximum age was set at under 16. These figures indicate that on the average, the caseload of the Youth Courts in Alberta may be expected to increase up to fourfold".

The new emphasis on rights in the Young Offenders Act and the Canadian Charter of Rights has paved the way for new issues to arise in court. For example, there is more opportunity to challenge the admissibility of statements and to engage in litigation over them. Half of the judges interviewed said that they had not noticed a significant increase in the number of legal issues which came up in court. Judges who said that there was a change said there had been an increase in number of civil rights arguments made based on the Charter of Rights.

In addition to investigating the impact of the YOA on the court, Gabor et al. (1985) looked at the impact of the YOA on services[55]. The move from a rehabilitation model to the accountability model was expected to produce changes. The major change to occur was the Solicitor-General's Department takeover of the service programs from the Department of Social Services and Community Health[56]. A second key change concerned probation. In particular, adult probation expanded so that young offenders are now served by it[57]. Many probation officers presently carry a mixed load of adult and youth offenders.

Three quarters of the people interviewed said that planning for the transition from the JDA to the YOA was inadequate or very inadequate[58]. Many things got worked out after the Act was implemented.

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[55] There was a great deal of uncertainty surrounding the proclamation date for the YOA. As a result there was a lack of planning for the change.

[56] The people interviewed thought that this was related to cost. The Solicitor-General's proposal for running these services was $17 million whereas the Department of Social Services proposal was $23 million.

[57] Only 12 new positions were established to handle 3300 new cases.

The personnel interviewed said that there had been a change in the orientation of services with the transfer of probation from the Department of Social Services to the Solicitor-General[59]. The main emphasis now is checking to see whether people comply with the dispositions the court orders. Interviewees said that probation officers are now "less qualified, less responsive and less interested" (Gabor et al., 1985: 20). The major concern is that there is a failure to identify the treatment needs of youth[60].

Giving youth rights has affected services in three ways. First, interviewees said the kinds of conversations they have with youth has changed. More and more young persons are pleading "not guilty" on the advice of their lawyer. This often means more remand orders. Sometimes these remand periods are longer than what custody dispositions for the offence would be[61]. Second, the people Gabor et al. (1985) spoke with said that adjournments are now more often for legal delay and argument than they are for assessments to be completed. Third, interviewees said that people in programs are less responsive now than before. Dispositions now have a determinate length so youth can concentrate on getting through this time without misbehaving. They are less interested in changing their attitudes.

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[58] Most people complained about the lack of input they had.
[59] There has been an increase in the volume of service but not in resources.
[60] Assessments of individual youths are said to be superficial. There is less chance now for individual needs to be evaluated and met.
[61] This finding corroborates those of Stapelton et al (1972).

Gabor et al. (1985) conclude that judges don't see the change which the YOA has brought about as being that radical. They still stress treatment and rehabilitation. Many resources which are required to meet the special needs of youth have not been set up as yet but program standards appear to be even lower than those administered under the old welfare system. Alberta seems to be only coming through on the accountability provisions of the Act but has failed to meet the special needs of youth. According to the researchers this may well be less of a conscious choice and more a product of government restraint.

The authors of this article suggest that if legal rights were emphasized before then the new emphasis has resulted in "an increased opportunity for legal argument and for work for lawyers during a recession" more than a strengthening of rights (Gabor et al., 1985: 26). The YOA is also thought to have made youth less accountable in two ways. First, with a lawyer acting on their behalf a youth does not have to take as much personal responsibility for his/her actions. Second, the complexity of the legislation and the procedures which have resulted may have led to a decrease in the number of youth charged. They suggest that more youth can now break the law without consequences than before. The new Act must include accountability, rights and special needs. If not, the best things about the Juvenile Delinquents Act will be lost with no new gains.

The Gabor, Greene and McCormick (1985) article is important because it provides one of the first examples of the effect of the Young Offenders Act on the Alberta courts. It tells us a great deal about how key actors in the system view the change and provides the basis for the formulation of research questions for the current study. The investigation of the legislation's impact on the court is especially important for this purpose.

The Gabor et al. (1985) work reminds us that the new law is merely a framework within which policies and practices can be implemented. Specifically, "the structure is general enough to allow implementation to take a variety of forms" (Gabor et al., 1985: 1). This sentiment is shared by Gordon West (1984) who states that we cannot just look at what the legislation prescribes, we must look at the day to day operation of the courts if we are to understand how it works. It also clearly demonstrates that all judges do not share the same view of the legislation.

The main finding in this investigation is that judges don't see the change as being that radical. While they perceive that some of their actions have changed they maintain that many of the things which the YOA prescribes were already done in the past. The Act has just provided the mandate for them to continue what have been doing[62].

The research is based on a series of telephone and personal interviews with full-time Alberta Family and Youth Division judges and a non-scientific elite sample of people in a cross-section of organizations which provide services to young offenders. These individuals offered their views on a number of subjects. While their views are important many of their observations should be subjected to empirical testing. Questions which can be raised include: Have judges increased their use of community service orders? Have judges increased their use of combination orders under Section 20 of the YOA now that they are mandated? Has there been an increase in the number of youth represented by counsel? Has the number of not guilty pleas increased? Do youth who are represented by legal aid lawyers plead not guilty more often than youth who are represented by other types of counsel? Do youth who plead "not guilty" get more time in custody than those who plead guilty? Are the types of offences which 16 and 17 year olds commit different from those of younger offenders? Are there more civil rights arguments under the YOA? Specifically, do lawyers make arguments under the Charter of Rights? Are there more challenges to the admissibility of statements? Are there more adjournments for legal arguments than for pre-disposition reports? Are there more cases before the court now than in the past? Has the average time required for each case increased?

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[62] Hackler (1984:41) says that it is debatable whether the YOA will introduce any changes. Perhaps it will just consolidate existing practices. The YOA codifies what is normal.

The focus of this research and the nature of the data collected make it possible to only deal with those questions about the Charter of Rights, admissibility of statements, the number of cases before the court and the average time required for each case.

This work suffers from two main problems. The principal criticism is that the authors interviewed 13/15 full-time Family and Youth Division judges of Alberta and presented the data in aggregate form. Nowhere in the article do the authors acknowledge the differences been the courts within the province. This is a serious flaw in the work. As Hackler (1984: 41) has cautioned "in the province of Alberta the two major cities, Edmonton and Calgary, operate under the same federal and provincial legislation, but differences between these two cities are probably as great as between many other cities in Canada". One has to wonder how much the differences in responses to specified questions were related to the actual differences between the courts. The results may well be confounded by this.

A second criticism concerns the presentation of data. The authors refer to "the majority of respondents" or "a minority of respondents" or they describe the responses as falling into categories. This is problematic given the small sample size. Actual numbers would have been more informative.

Another work which looks at the juvenile court in Canada is that of Bernard Schissel (1988). In an unpublished doctoral dissertation, Schissel tests consensus and conflict theories of youth crime to better understand how the individual youth is treated and experiences the institutions of family, education and the law. He ultimately calls for a theoretical and methodological melding of consensus and conflict theories. Of particular interest for the present work is Schissel's test of conflict theory models of youth justice. With the goal of analyzing the effects of legal versus extra-legal (race, class, legal experience and family influence) variables on youth court outcomes Schissel focuses on "the selective application of juvenile statutes" (Schissel, 1988:94) and asks why bias exists at both the police and juvenile court level. He suggests that the answer lies in the tremendous discretionary power that law enforcers and legislators have. From a conflict theory perspective he notes that the answer is the uneven application of law. People who end up in the system are those who can offer the least resistance to it.

Using direct court observation data collected in the Edmonton Youth Court from May 20, 1986 to July 25, 1986 (post YOA) Schissel (1988) tested six hypothetical models of youth justice. Each model represented a stage of the juvenile justice process. Specifically, model one predicted type of offences and represented the arrest or policing stage. Models two through five included decision to detain or release upon arrest, counsel type, plea and adjudication. The sixth model "predict[ed] sentencing/disposition and reflects the latter stages of the judicial process" (Schissel, 1988:112). Race was the main predictor variable.

Schissel's research was conducted during the same time as the present study so it is expected that many of the findings could be replicated. However, the focus of this dissertation does not make it possible to test the hypotheses which stem from the Schissel work. Specifically, 1) those males who have a prior record have greater access to private or legal aid counsel; 2) males who commit serious crimes have greater access to private or legal aid counsel; 3) females who commit serious crimes and have a prior record have more access to private or legal aid counsel than their male counterparts; 4) whites and native Canadians aged 12-15 years have the greatest opportunity of retaining private lawyers; 5) youth who are over 15 and not classified as white or native Canadian have a much greater chance of retaining private counsel; and 6) youth who have a prior record are less likely to plead guilty than those who have no prior record.

The Schissel work deals with both criminogenisis and justice--two subjects which traditionally are not addressed together. It provides a thorough review of the literature on both subjects and goes on to test the assumptions of each group of theories. His hypothetical models are clearly specified and well-grounded theoretically. The findings are stated concisely and logically. The discussion is cogent and well-tied to the literature reviewed. His call for a theoretical and methodological integration of consensus and conflict theories is long overdue and Schissel's work is a step toward greater understanding of youth crime.

What is problematic about this research from the perspective of the current investigation is the data used for the test of conflict theories. The researchers observed three of the Edmonton youth courts during a ten week period in the summer of 1986. According to Schissel(1988) 1582 individuals were observed. This is clearly misleading. There was no attempt in this study to track individuals from time of first appearance through to disposition. It is highly likely that many of the same individuals appeared at several points throughout the observation period. It is probably more accurate to say that 1582 hearings were observed. Unfortunately there is no attempt to account for this distinction in the data and the reader is left wondering how much this affected the findings. Are the results or the interpretation of the results confounded?

A second concern is with the coding sheet used by the courtroom observers to check off what happened at a particular hearing. Forty one variables were included on the sheet. The variables type of appearance, adjournment and disposition seemed problematic. Each are made up of mutually exclusive categories which do ~~not~~ account for those hearings where more than one action took place. For example, the type of appearance variable is made up of eleven distinct categories. In many cases a youth makes a first appearance, enters a plea and the case is disposed of so three categories would be checked. Schissel does not explain how he dealt with such situations. Did the courtroom observers simply check the first thing which happened? This is also true for the adjournment variable. A hearing might be adjourned for a youth to seek counsel and for plea-- again two categories within the same variable. Finally, where multiple charges were disposed of probation might be given as an outcome for one and a fine for another. Again, how was this situation handled?

The "counsel" variable also raises some questions. The instrument used classifies lawyers into three categories- lawyer, duty counsel and other yet Schissel talks about privately retained, legal aid and other counsel. How this was determined is far from clear.

VII. Research On Environmental And Organizational Influences On The Juvenile Court

The review of literature concerning the change of legislation in the juvenile court and the impact of policies on the courts shows that juvenile court practices appear to be affected by the environment in which they exist and by specific organizational characteristics. Two key studies have explored this topic and will be considered here.

Aaron Cicourel's (1968) The Social Organization Of Juvenile Justice is concerned with how what have been labeled bureaucratic activities routinely process youth. Adopting Harold Garfinkel's definition of "an organization" he focuses on elements of case processing which have been relatively unexplored by other sociologists working in this area. He assumes that "complex" or "bureaucratic" activities are bounded in similar ways. Members of an organization abide by general procedural rules in their day to day activities but develop their own way of doing things which is acceptable to themselves and their supervisors. The author argues that police, probation and court officials produce the juvenile's "delinquency status' as they go about their routine tasks. What ends up being called justice is generally negotiable within the boundaries of established organizations. It is therefore necessary to consider the nature of law enforcement activities with reference to juveniles because it shows something about the practice and enforced nature of the legal order[63].

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[63] The Cicourel (1968) work is couched in a broader discussion of sociological theory and method. For him, the researcher's and respondent's decoding and encoding procedures must be the focus of research. Data and findings must be understood with reference to background expectancies. Problems of objectification and verification are solved through specific strategies. Solutions are related to whether theories are macro or micro. When we use a particular strategy we should be aware of its limitations and reliance on background expectancies. This should be an object of inquiry. The social structures we try to understand "presuppose a knowledge of the background expectancies members of a society must utilize as

Cicourel conducted his research in two similarly sized geographical areas which are known as City A and City B. The original goal was to follow a cohort of juvenile cases from the point of first contact with the system through to disposition by probation or the court. All juvenile encounters with various law enforcement personnel were to be observed and tape recorded. This approach became unfeasible. Instead participant observation was conducted during a four year period in two probation and police departments and juvenile courts[64]. Police and probation reports, observed and sometimes not recorded conversations and conversations not observed by the investigator but recorded, provided the data for the study.

For Cicourel (1968) police and probation officers and court officials categorize juvenile cases as typical, normal and/or strange at various stages of case processing. Different people have different orientations. To each case these people bring certain ideas of what is normal, strange, acceptable, etc. To understand how decision-making transforms some event so that the case proceeds, becomes reified or is terminated then the sociologist must look at law enforcement personnel in their own organizational contexts. This focus on decision-making at various stages tries to show how background expectancies enable actors to look for valid explanations of "what

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a scheme of interpretation for making an environment of objects recognizable and intelligible" (Cicourel, 1968: 15).

[64] Cicourel himself participated intensely during the last year of the study. In one county he became a probation officer and this provided access to a variety of situations.

happened" and to justify decisions. This greatly affects what gets written up as "what happened".

It becomes important to study conversations because it provides understanding of how history is created. Further it shows how written documents become disengaged versions of what happened. As Cicourel(1968: 332) himself writes,

> In calling attention to a basic problem of how conversations are transformed into documents or reports and how members walk away from initial observation with "impressions" or "knowledge" about "what happened" as opposed to meanings derived from a later oral or written account of "what happened", I emphasize the significance of how any oral or written (or combination of the two) tradition(s) serves as a stable and changing depiction of the social structure

Researchers must address themselves to this or else documents are treated as literal descriptions. Variables such as grades in school, income, home situation, etc may well be classifiable variables but they miss the key issues and lead us to incorrect conclusions. We ignore the phenomenon known as delinquency.

Cicourel adopts a consistent style throughout the book. He chooses cases to show how law enforcement personnel bring different background expectancies to each situation. He attempts to show how there is no common set of referents on which people make evaluations and generate perspectives about others. He concludes that "organizational policies and their articulation with actual cases, via background expectancies of officers differentially authorized to deal with juveniles, directly changed the size of the "law enforcement net" for recognizing and processing juveniles viewed as delinquent, and determined the size and conception of the "social problem" (Cicourel, 1968: 330). Routine processing of cases should not be taken as obvious.

In my view the work falls short. First, the reader is given no explanation for why particular cases are included as examples of how an actor's definition of the situation determines what he sees as "real" and affects how he prepares for future action and influence. Perhaps the cases which Cicourel selects for inclusion are unique or exceptional in some way. What about the other cases which this study followed? Why were they not referred to or included?

Second and of greatest concern is that there is an overemphasis on juvenile justice as an emergent social process and on explaining social reality by looking at individual consciousness and subjectivity. There is too much concentration on how social reality is practically accomplished. Specifically, how do people make sense of their everyday activities and how do they communicate their experiences to others? As a result, Cicourel does not make use of the information he gains concerning the organization of juvenile justice. For example, he notes in Chapter 5 that City A emphasizes efficiency interests in the administrative model of police organization while City B emphasizes bureaucratic interests. At no point does he use these organizational differences as an explanatory framework for what he finds. Howard Becker (1968) has summarized this problem succinctly. He writes, "real analysis of the social structure which produces juvenile delinquency as a social fact goes by the board while Cicourel makes and remakes the point that delinquency is a socially produced fact" (Becker, 1968: 684). While new insights are gained into the functioning of the system a broader theoretical framework for future analysis is not forthcoming.

Robert Emerson's work, Judging Delinquents: Context and Process in Juvenile Court (1969) reflects two sociological heritages. On the one hand it is an institutional analysis of the juvenile court. On the other it adopts a societal reaction approach to deviance and considers how juveniles are identified and labelled delinquent. The first part of the work is devoted to the institutional analysis. Emerson describes the social context in which the court functions. He is interested in the nature and consequences of the court's relations with local institutions for internal operations; and in the conflicting ideologies and purposes built into the court. How are these conflicts worked out and resolved in the process of judging delinquents?

The Emerson work is based on participant observation and informal interviews with the court staff of a juvenile court in a large metropolitan area[65]. Initial observations were centered on following individual cases from the point of complaint at the clerk's office, to initial and subsequent handling by the probation staff and then through the court process. A concerted effort was made to observe both formal and informal interaction between delinquents and court officials. The analysis which resulted was intended to be illustrative and suggestive.

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[65] The work is principally a case study but to overcome some of the problems with this methodology other courts and related institutions were also observed. This was done weekly during the five months before the study began.

Emerson found that while there were certain statutes according to which the court operated there were also two conflicting orientations within the juvenile court. The court performs restraining, controlling and punishing functions. The court is also seen as helping and treating offenders.

Processing a case through the court involved up to seven possible steps or stages. First, a complaint was initiated. Second, the complaint went to the clerk's office. Third, the clerk's office forwarded the complaint to the probation officer. Forth, the youth went to court for arraignment. The probation officer played a key role. The judge advised the juvenile of his/her right to counsel[66]. If no lawyer was desired then the case generally proceeded. It is important to note that while there were many procedural safeguards at this stage there was also a great deal of discretion involved in the proceedings. The fifth step was adjudication where the judge determined whether or not the juvenile was guilty or not guilty of the alleged offence. After adjudication the judge had the option to transfer the youth to the ordinary courts - this was a sixth step. The seventh stage was disposition. Here the probation officer made recommendations to the court concerning what was the most appropriate disposition for a particular juvenile. For example, the probation officer suggested a referral to a clinic. On the basis of this and other information the judge would reach a decision. Emerson found that an internal organization of the court existed. It was made up of three key positions - judge[67], probation officer[68] and clinic staff[69]. Each group had its own view of what their role and function was.

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[66] Each juvenile is entitled to counsel in this court. Most youths were indigent and had the public defender represent them.

What this study shows is that the real issue which the court faces is not between punishment and treatment but identifying alternatives which will satisfy the interests in the case and also help the concerned juvenile. To do this the court establishes relationships with various institutions and engages in organizational exchanges with them[70]. Politics becomes a key part of the life of the juvenile court. Politics shapes aspects of court functioning. While the organizational environment and politics are important for understanding the operation of the juvenile court an investigation of the role which these elements play in understanding the new young offenders court is beyond the scope of the current investigation.

As previously noted, the second half of the Emerson work is concerned with the societal reaction approach to deviance. The author contends that the court must assess moral character in order to work out solutions to trouble cases[71]. Specifically, "the court makes an independent assessment of 'trouble' and of the necessity of 'doing something'. This assessment reflects its own organizational priorities and 'problem relevances'". The kind of moral character[72] which is eventually established about a particular juvenile is negotiated from facts, opinions and reports made to the court. Concerned individuals make presentations[73] to the court while accused juveniles attempt to use protective strategies[74] to defend themselves against these accusations. The courtroom proceedings represent a "ceremonial confrontation" (Emerson, 1969: 172) between the legal order and the accused. The purpose of this ceremony is to intimidate the accused. S/he is denied the power or opportunity to express anything other than his discredited role.

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[67] There was a chief judge who set the general rules and procedures of the court, controlled the hiring of court personnel including probation officers and the secretarial staff and sets policy guidelines for probation. In a sense the juvenile court is "his court". He is an administrator.

[68] Probation officers are appointed by the Chief Judge. They perform multiple functions including routine tasks which keep the operation going. They occupy a lower status in the court than other actors.

[69] This is under the state control of the department of mental health. Their main responsibility is the diagnosis and treatment of court cases.

[70] The court has strong ties to the police and to the schools.

Beyond the courtroom a youth's character remains open to discreditation. For example, while the goal of probation is rehabilitation the immediate issue is the control, deterrence and inhibition of bad behavior. Rules are set up by probation officers to achieve this end. The result- during probation a youth's character is open to discreditation. Probation becomes a trial of moral character.

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[71] The court identifies trouble in two ways: 1) commit a serious offence; and 2) patterns of behavior and social circumstances that precede serious or delinquent behavior. The question is no longer "what happened here" but rather "what can be done here".

[72] The three classes of moral character are: 1) normal which means that the case will be handled in a routine manner and will generally result in probation; 2) criminal which means that incarceration in reform school or some other institution is warranted; 3) disturbed which means special treatment.

[73] There are two kinds of presentation strategies. Pitch describes character in a positive manner. Denunciation tends to discredit character. This person is usually seeking a severe disposition. The person making the presentation tries to show that a given act is part of a typical delinquent career.

[74] Defence strategies available to youths to avoid discrediting are: 1) profess innocence; 2) offer a justification for the action; 3) give an excuse; or 4) offer a counter-denunciation.

Emerson concludes that the juvenile court is a back-up institution. It is expected to support its users official actions as well as their authority and general legitimacy. Specifically, the court must back up and "legitimate the internal control regimes and practices of agents dealing with troublesome youth" (Emerson, 1969: 269). Emerson also concludes that the court tends to label somewhat reluctantly however in the process of trying to help delinquents the court tends to label youth. It is under constant pressure from many related agencies to do so.

Emerson's work is significant. It is one of very few examples of research which considers the structure and functioning of the juvenile court and its relationship to other agencies. In addition it considers how the external environment (social, political, economic) affects the functioning of the court. The real contribution of this work is that it views the court as an organization. The juvenile court has many of the same characteristics that complex organizations do[75]. In particular, it is highly structured, it has a clear division of labor among various key actor groups[76] and a hierarchy. It is tied into an intricate network with other organizations and is affected by this operating environment[77]. Emerson uses this to explain what he discovers about the juvenile court.

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[75] More and more there is a literature which has established that criminal justice agencies can be seen to share many of the same characteristics as complex organizations do (Feeley, 1973; Sarri, 1976).

[76] Cramer (1981) writes that the formal division of labor in the courts is very similar to the day to day division of labor.

The Emerson work is important for the current study. Specifically, it is the only example of research in which cases are followed from the point of entry into the system until their disposition. Since this approach is adopted in the present investigation the findings of this study are particularly important. In addition, the court which Emerson studied was undergoing innovation and change during the data collection. This parallels the Edmonton court where the Young Offenders Act has only recently been implemented and things may still be in a state of transition.

What is problematic about the Emerson book is its failure to address how changes in the environment affect the juvenile court. Do changes like the proclamation of a new juvenile court act affect how the court functions? Does the court adapt to the change or is it able to ward it off? If the dominant philosophy of the organization changes does its day to day functioning change? These are important considerations and ones which were not addressed in this work. They are not investigated in the current research either.

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[77] During the 1970's perspectives in the sociology of organizations began to emphasize the role of the environment in relation to organizations and in determining organizational structure (Scott,1983: 13).

VIII. Dominant Themes In The Literature

The review of the literature on the impact of policies on courts and the research on how juvenile court philosophies and practices are influenced by the environment and organizational characteristics leads to four important conclusions. First, legislative changes which were binding on juvenile courts were in no way accepted outright. Second, juvenile courts are affected by the environment in which they exist and by specific organizational characteristics. Third, legislation provides a framework within which policies and practices can be implemented. The structure is general enough to allow implementation to take a variety of forms. Forth, judges make individual adaptations to changes in policy.

A dominant theoretical theme in the literature reviewed is the idea of intended and unintended consequences of legislation. In terms of the Gault decision, the intended consequences were to secure youth' right to counsel, make the constitutional privileges of self-incrimination and right to confrontation applicable to juveniles. While the implementation of these three principles varied from one court to another there were also some unintended consequences of the Gault decision. Specifically, defence lawyers were given official status in the juvenile court but their introduction also meant that more time was needed for youth to get counsel. This change increased the length of time required to process cases from first hearing to disposition. Court congestion resulted. The presence of lawyers in the post-Gault court also seemed to condition the plea bargaining process (Horowitz, 1977). As more and more attorneys encouraged their child clients to remain silent and put the onus on the state to prove its case, plea bargaining was encouraged. Further, the Gault decision meant that a youth's rights were protected but it failed to address the social welfare concerns of many juvenile cases. The move to a due process model in the post-YOA court has meant that social welfare concerns have become secondary. This is in sharpt contrast to the court of the past where social welfare concerns were primary. Such a change may be seen as an unintended consequence of the implementation of the YOA. While the new legislation speaks to the matter of the special needs of the young person in Section 3(1)(c), the emphasis is on the due process model of court functioning.

The distinction between intended and unintended consequences parallels R.K. Merton's (1967) idea of manifest and latent functions. For Merton, manifest functions are the "objective consequences" of a particular action which are intended and recognized by participants in the system. They contribute to the adjustment or adaptation of the system. Latent functions are the unanticipated consequences of the system. Drawing out the differences between manifest and latent functions here can be of heuristic value. It helps to clarify the analysis of what often seem to be irrational social patterns, it broadens our focus as sociologists to areas beyond those which are readily identifiable and by discovering what the latent functions of an action are we increase our sociological knowledge of it (Merton, 1967: 118-122).

Merton's idea of manifest and latent functions is a useful way to conceptualize the possible impact of the new Young Offenders Act on the Edmonton court. It leads to the formulation of two key research questions. First, does the change in governing legislation mean that the court functions according to a formal due process (justice) model or does the court continue to operate according to an informal (welfare) model? Second, has the implementation of the Young Offenders Act had any unintended consequences? The Act prescribes minimum and maximum age limits, lawyers will be present, bail hearings will take place, that judges will explain criminal charges to accused youth but has for example the amount of time it takes to process a case become excessive, has the introduction of lawyers meant that social welfare concerns are displaced, has the addition of lawyers to the court process conditioned the plea bargaining process and do some judges explain charges while others do not? These are defined as the unintended consequences.

Studies of criminal courts show that judges, lawyers, probation officers and prosecutors are part of a fairly stable workgroup (Heumann, 1978; Mather, 1979). These actors are in regular contact with one another and as a result of this close working relationship patterns of behavior develop which serve both the needs of these individuals as well as the court as an institution[78]. These patterns are not likely to be changed quickly. In fact we can expect that once these patterns develop "they continue because participants believe they are desirable or necessary, and they become deeply embedded in the beliefs and values that make up the courtroom workgroup culture" (Casper and Brereton, 1984: 131).

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[78] The workgroup theory acknowledges that there are multiple goals within the court system and conflicts between official goals and key actor goals.

The workgroup theory of courts informs the present study. Specifically, the implementation of the Young Offenders Act is intended to alter the behavior of many of the courtroom actors. The theory however suggests that the workgroup is likely to be resistant to change and that actors will make adaptations so that they comply with the law without having to make any great changes to their behavior. Any observed change in the functioning of the Edmonton court may be the first sign of a significant change in behavior. Finally, the workgroup theory suggests that if we are to fully understand the impact of the Young Offenders Act we must be mindful that different courtroom actors have different goals, values and incentives. Failure to recognize this "is likely to lead into the trap of reification and away from social theory" (Feeley, 1973: 419).

IX. Summary

The central thesis in this research is derived from the review of the literature. Specifically, the new legislation will produce changes in the courtroom proceedings and the processing of cases for the Edmonton Youth Court; and individual judges will respond to the changes which the YOA mandates in different ways. The two key issues which will guide this investigation are: 1) How does the change in legislation affect the functioning of the courtroom? and 2) How is the behavior of judges affected by the implementation of the Young Offenders Act?

The studies discussed in this chapter have employed three levels of theory- macro, organizational and individual. As such this literature suggests possible directions of change for the Edmonton Youth Court with the implementation of the Young Offenders Act. However those studies which adopt an organizational perspective are most helpful given the focus of the current work. While the new Canadian legislation may well result in changes similar to those which the literature outlines it may be that the changes will occur in directions which have not been anticipated. Only the data from the present investigation on the functioning of the Edmonton Youth court after the Young Offenders Act will bear this out. Has the court made the changes which the legislation prescribes? Has it simply adapted to the YOA rather than pursuing it or does the court continue to function in much the same way as it did before the proclamation of the new Act?

Chapter 3 will discuss the research questions which have been identified on the basis of the literature review and which can be addressed by the data collected. The method for examining these questions empirically will be outlined.

CHAPTER 3: METHODOLOGY

I. Introduction

The review of the literature raised many questions about what may happen in the Edmonton Youth Court after the Young Offenders Act is implemented. These questions coupled with the major differences between the Juvenile Delinquents Act and the Young Offenders Act outlined in Chapter 1, lead to the two principle hypotheses in this study. First, there will be greater formality in the court after the implementation of the Young Offenders Act. Second, there will be a lack of uniformity in how judges respond to the new legislation.

This chapter will outline how formality in the court and lack of uniformity among judges will be measured. In addition the research setting will be described, the observation instrument discussed, the baseline study described and its implications for the present investigation addressed. Finally, the comparative study will be discussed.

II. Measuring Formality

The literature reviewed in Chapter 2 suggested that there are seven indicators of formality in the juvenile court. These fall into the broad categories of key actors, case processing, hearings, reports, motions, plea bargaining and case outcomes. Using these indicators specific hypotheses designed to test whether there is greater formality in the Edmonton court after the implementation of the YOA are outlined below. Tests of these hypotheses involve comparisons between the pre-YOA (Time 1) and post-YOA (Time 2) court.

Relevant observation schedule items are also discussed and the reader is referred to Appendix A for the observation schedule used in this study.

1. Key Actors

H_1: The proportion of Crown prosecutors to total number of hearings who will participate in the youth court process is greater after the implementation of the Young Offenders Act.

Prosecutor is operationalized as a Crown attorney or Crown agent (not police). The new legislation secures a youth's right to retain and instruct counsel. As Horowitz (1977) found, when lawyers were introduced into the courtroom prosecutors emerged to handle and present cases.

To determine whether or not more Crown prosecutors participated in the court process after the YOA the frequencies for item #93 were examined for pre-YOA and post-YOA data. A comparison of population proportions made it possible to determine whether or not there had been any change[1].

H_2: The proportion of defence lawyers to total number of hearings who will participate in the youth court process is greater after the implementation of the Young Offenders Act.

Lawyer is operationalized as a duty counsel, retained representative, agent for retained counsel or Legal Aid representative. Under Section 11(1) of the Young Offenders Act secures the youth's right to legal counsel independent of parents and at every stage of the court proceedings. While the law secures the right to counsel it is necessary to consider whether there are more lawyers now than under the YOA. In reviewing a number of studies on the post-Gault American juvenile court Horowitz (1977) found that the actual number of lawyers active after the decision was not as great as originally anticipated. An increase in the number of lawyers is still predicted for the post-YOA Edmonton Court. A recent interview by Raymond Gariepy of the Legal Resource Centre (Edmonton) with David S. McGuire, Program Services Director of The Legal Aid Society of Alberta established that Legal Aid has handled more cases since the YOA came into effect. In particular, between April 1, 1984 (the date the legislation came into force) and January 31, 1985, 767 youths had applied. The same period one year earlier had only 401 applicants. Gabor, Greene and McCormick's (1985) work also supports this view.

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[1] All frequencies had to be weighted by number of hearings or cases in the two data sets to make proper comparisons. This was done to test each of the formality hypotheses.

Item #94 of the observation schedule asks "Is there someone representing the accused juvenile?" and serves as the measure of whether there are more defence lawyers participating in the court process after the implementation of the YOA than before. The frequencies for this item at Time_2 are compared to those for Time_1 and a difference of population proportions test employed.

H_3: The proportion of white and Native Canadian youths having legal representation to the total number of cases will be equal after the implementation of the YOA since the right to counsel is secured for all youths.

Every youth who appears in the Edmonton Youth Court is entitled to counsel. This right is secured for all youths at every stage of the proceedings and independent of parents. Race should not be a factor in who is and is not entitled to legal counsel.

To determine whether or not there is an equal degree of representation for white and non-white juveniles after the YOA legal representation (item #94) was cross-tabulated by race (item #86). Race was broken down in two principle ways. First, all cases were partitioned into the dichotomous categories of white and non-white youths. Second, all cases were split so that the race variable consisted of Caucasians and native Canadians only. Ratios were constructed and compared to see if there were any differences in legal representation among these groups of individuals.

H_4: The proportion of youths with a record who also have legal representation after the implementation of the YOA will still be greater than for youths without a record.

Those youths who have a prior record have appeared in court before. They are more likely to be familiar with the entire court process than those youths who have no prior record. They may well know of their right to retain counsel or of the importance of having someone represent them in court proceedings.

To test this hypothesis the prior record variable was cross-tabulated by item #94 (legal representation). There was however no single item in the observation instrument which distinguished youths with a record from those without a record. A prior record variable was constructed. Using items 159 and 183 the "no prior record" element of the variable was contrived. Combining items 163 and 187 the "prior record" element was created. It is important to note that only items 163 and 187 tell specifically whether a youth had a prior record. None of the other aspects of prior record which are outlined in items 159-167 tell definitively whether a youth has been found guilty in the past and so were not included as measures of prior record. A difference of population proportions test was used here.

2. Case Processing

H_5: There will be more delays in case processing after the implementation of the Young Offenders Act.

Delays are measured by the number of days required to move a case from first hearing to last hearing. The length of time in the process will be determined by the window period. Window period is the time when a youth was observed at a first appearance to a last appearance. It is a juvenile specific term.

In describing the changes which occurred in the California juvenile court Lemert (1970) found that one unanticipated consequence was court congestion. Judges interviewed by Gabor, Greene and McCormick (1985) agreed with Lemert's contention. Specifically, three quarters of those interviewed said that there had been an increase in the average time it takes to complete a case under the Young Offenders Act.

To see if there were any changes in case processing after the YOA the length of time required to move a case from first to last hearing was compared to the length of time required for the same time points prior to the new legislation. The control variable, legal representation (item #94) was then introduced to determine whether or not having counsel affected case processing after the YOA. Further, all cases were then split into two groups. Category one consisted of all cases which entered the observation period before July 24, 1985 and category two of those cases which entered the window period after July 24, 1985. On this particular date one judge announced that the court had now prepared a form for youth seeking counsel through Legal Aid to take to their first appointment. The form stated that "in the event that legal aid is refused then the court orders counsel be appointed". In the past, a youth would go to the Legal Aid Society be denied counsel and return to court where a judge was then likely to order that counsel be appointed. The new form was intended to expedite the process. The control variables, legal representation and prior record were employed. Again, a difference of means test was employed.

H_6: Youths with prior records will experience more delays in case processing after the implementation of the YOA than those with no prior record.

As before, it was necessary to use the constructed prior record variable described above consisting of the dichotomous categories "no prior record" and "prior record" to test this hypothesis. A difference of means test was used.

H_7: The proportion of hearings set over for trial to the total number of hearings will be greater after the implementation of the Young Offenders Act than before.

In the Zenith courts that Stapelton, Vaughn and Teitelbaum (1972) described as formal there were more denials to charges than in the Gotham court described as informal. There was a greater desire to make the state prove its case. To determine whether or not more cases were set over for trial after the implementation of the Young Offenders Act than before, the frequencies for item #791 were compared and a difference of population proportions test conducted.

3. Hearings

H_8: The proportion of hearings adjourned for plea to the total number of hearings will be greater after the implementation of the YOA.

In more formal courts Stapelton et al (1972) found that there were separate plea hearings. Specifically, a hearing was exclusively for the purpose of entering a plea to the charge(s) before the court. To measure whether in fact the Edmonton courts were moving toward having pleas entered at separate hearings item #798 was examined. It was believed to be the best measure for this hypothesis as it represented one of the many reasons for why a case was adjourned. Response number 103 to this item indicated that a hearing was adjourned "for plea". The frequencies for this item before and after the new legislation were compared.

H_9: The proportion of hearings where bail/detention are discussed to the total number of hearings will be greater after the implementation of the YOA.

Under the new law a specific bail hearing procedure is to be followed and is described in YOA Section 8. Bail hearings were specified under the Juvenile Delinquents Act but the procedure to be followed was not. Item #615 in the observation schedule provided information about whether bail/detention was discussed at a particular hearing. Frequencies for this item at the two points of time of interest here were compared.

H_{10}: The proportion of hearings to total number of hearings where jurisdiction is ascertained will be greater after the implementation of the YOA.

As of April 1, 1985 the new legislation established that the court can deal with youths aged twelve to eighteen years[2]. These age parameters represent a change in the court's jurisdiction. Under the JDA the minimum age for a juvenile in Alberta was seven years and the maximum was sixteen.

The age change has created the potential for difficulties. In particular, does the court have jurisdiction over a young person if s/he was sixteen or seventeen at the time the offence was committed, when the charges were laid or if the legal process was initiated in the adult court prior to April 1, 1985? What happens to sixteen or seventeen year olds who committed an offence before April 1, 1985 but whose charges were laid after that date? A recent article suggested that in both instances the matter would be dealt with in the adult court (Struthers, 1985). The important issue is when the offence was committed. The case already in progress in the ordinary court would continue. In the other case, "the law considered the young person an adult at the time of the offence [and] the case would be dealt with in adult court" (Struthers, 1985:9).

A third scenario involves offences committed after April 1, 1985 by a person sixteen or seventeen years of age. These matters will be dealt with in the Youth Court because after April 1, a sixteen or seventeen year old is considered to be a youth.

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[2] Each province was allowed a one year period to effect the age changes.

Given the changes outlined jurisdiction may be ascertained (i.e a youth's age determined) before going forward in a given proceeding. Item #98 indicates whether or not jurisdiction was ascertained at a particular hearing. Frequencies were examined for this item both before and after the YOA and a difference of population proportions test conducted.

4. Reports

H_{11}: The proportion of hearings adjourned to get social reports to the total number of hearings will be greater after the implementation of the YOA.

Social reports are operationalized as pre-disposition reports. A pre-disposition report is prepared at the request of the judge, Crown prosecutor or defence counsel by a probation officer. It may be either written or oral. If written it must contain specific information including recommendations for disposition. A pre-disposition report must be made available to all participants. Although Stapelton et al (1972) argue that there will be more social reports before an informal court than a formal one this is not consistent with what the YOA prescribes in Section 14..

By considering whether or not a hearing was adjourned for preparation of a pre-disposition report (item #811) it was possible to determine whether more social reports were being requested after the Young Offenders Act than before. A comparison of frequencies before and after the legislation for item #811 indicated whether this was in fact the case.

5. Motions

H_{12}: The proportion of technical motions to total number of hearings will be greater after the implementation of the YOA.

Technical motions are operationalized as *voir dires*, a request by the Crown prosecutor for two days notice to prepare for bail hearing, arguments made on the basis of the new Canadian Charter of Rights and Freedoms and the Constitution. More technical motions are likely to be heard in the post-YOA court than the pre-YOA court (Stapelton et al, 1972).

Items #440 and #798 are measures of whether *voir dires* occurred, the Crown requested two days notice to prepare for a bail hearing, there were arguments made on the basis of the Canadian Charter of Rights and Freedoms and the Constitution. Frequencies for these items were compared to see if there was an increase in such technical motions after the Young Offenders Act.

6. Plea Bargaining

H_{13}: The proportion of plea bargaining to the total number of hearings will be greater after the implementation of the YOA.

Plea bargaining is operationalized as the reduction of charges to categories of lesser offences. According to David Horowitz (1977) one of the unanticipated consequences of introducing lawyers and prosecutors into the American juvenile court setting was that it served to condition the plea bargaining process.

Items #124-135 of the plea section in the observation schedule provide three pieces of information-charge identifier number, whether the plea entered was an original or changed plea and the type of plea entered (guilty, guilty to a lesser and included offence, not guilty). For purposes of this hypothesis, type of plea entered was of primary interest. All charges for which a guilty to a lesser and included offence was entered were separated out and the frequencies compared to the pre-YOA charges for which this occurred. The variable, type of legal representation(item #95) was then introduced to determine whether or not in those hearings where youths plead guilty to a lesser and included offence they had a particular type of counsel representing them.

7. Case Outcomes

H$_{14}$: The proportion of cases dismissed to the total number of hearings will be greater after the implementation of the Young Offenders Act.

The formal Zenith court was found to have more case dismissals. A case is dismissed when there is insufficient evidence for the judge to even consider finding an accused person guilty of an offence

Item #726 provides the reasons for why a case ends. An 01 response indicated that a case was dismissed. The frequency of an 01 response to this item before and after the Young Offenders Act was compared.

III. Measuring Lack Of Uniformity

The second major contention in this dissertation is that there will be a lack of uniformity in how judges respond to the new legislation. As outlined in Chapter 1 the Young Offenders Act mandates a number of procedural changes. Whereas in the past judges had a great deal of latitude in how they ran their courtrooms the new Young Offenders Act is expected to change the amount of discretion an individual judge is afforded. However based on the literature reviewed judges are still expected to vary in the way they interpret various aspects of the new law in spite of the more rigid legislation. It is in courtroom procedures that the most variation in the behavior of judges is likely to be observed.

One problem here is that it is not possible to make any comparison between how judges behaved under the JDA and how they behave under the YOA. Only inter-judge comparisons in the post-YOA court will be made. This is important to note because it may be the case that judges were always different from one another.

For hypotheses 15 through 20 judge is the independent variable and judges' identity is obtained from item #5 of the observation schedule, judge identifier number. Also, judges are said to do various things at "different rates" in each of the hypothesis below. Different rates is operationalized as the percent of time which judges do some one thing versus the percent of time which they do not. Finally, the test used to measure lack of uniformity was a one way analysis of variance (ANOVA).

H_{15}: Judges will advise youths of their right to counsel at different rates after the implementation of the YOA.

Under YOA Section 11(3) the youth has the right to be informed that s/he has the right to legal counsel. Under the JDA there was no such provision.

Item #96 of the observation schedule asks "Does the judge explain the right to consult a lawyer?" and was used to measure the differences in how judges advise youths of their right to counsel. All hearings in the study were considered initially. The Young Offenders Act establishes that judges are to advise youths of this right at all stages of the proceedings if they are not represented. After obtaining the initial results for this hypothesis the findings were re-examined in light of the answers to items #94 and #95 which provide information about whether there is someone representing the accused (item #94) and the type of representation (item #95) a youth has. It seemed unlikely that a judge would advise a youth about counsel if counsel was already present. The only qualification here was if the type of counsel appearing was a duty counsel. In that case a judge should still advise a youth of his/her rights since duty counsel appears only for one hearing and acts for all youths in need of legal representation on a particular day.

H_{16}: Judges will advise youths of their eligibility for Legal Aid at different rates after the implementation of the YOA.

"Does the judge explain that a juvenile might be eligible for legal aid?" (item #97) was the measure used to test hypothesis 15. Under YOA 11(4) a judge is to refer a youth to the legal aid program so that counsel might be appointed. As with the preceding hypothesis it was important to separate hearings in terms of whether a youth had counsel or not and the type of legal representation. Prior record was also introduced as a control variable.

To properly test hypothesis 17, 18 and 19 it was necessary to separate those hearings where an arraignment occurred from those where no arraignment occurred because it was in the arraignment section of the observation schedule that the measures for these three hypotheses were found. To include those hearings were no arraignment occurred would mean that a large number of "not applicable" would be included in the analysis.

H_{17}: Judges will explain criminal charges to youths at different rates after the implementation of the YOA.

A major emphasis in the new Young Offenders Act is ensuring that the young person understands what happens in court. Section 12(3) of the YOA establishes that the judge must be satisfied that the young person understands the charge against him/her before proceeding with the case. Judges are required to explain the charges which a youth faces, determine whether or not s/he understands a charge and inquire whether the difference between guilty and not guilty are understood. Under the JDA this was left to the judge's discretion.

To test hypothesis seventeen item #113 was used. The control variables of prior record, having legal counsel (item 94) and type of legal representation (item 95) were introduced.

H_{18}: Judges will ask whether or not a juvenile understands a charge at different rates after the implementation of the YOA.

Item #114 asks if the judge inquires whether the juvenile understands the charge read out against him? This item was run by judge presiding and then again with the control variables prior record, having legal counsel (item 94) and type of legal representation (item 95).

H_{19}: Judges will inquire whether or not a youth understands the difference between guilty and not guilty at different rates after the implementation of the YOA.

Section 12(3) of the Young Offenders Act establishes that a judge must explain to a young person that s/he may plead "guilty" or "not guilty" to the charges before the court. Under the JDA juveniles would plead "delinquent" or "not delinquent".

Item #115 was used to test this hypothesis. Prior record, having legal representation(item 94) and type of representation(item 95) were controlled for.

H_{20}: Judges will give reasons for dispositions at different rates after the implementation of the YOA.

Section 20(6) of the Young Offenders Act establishes that a judge must state his/her reasons for dispositions so that it becomes part of the permanent court record. Only those hearings where a disposition was given were used to test this hypothesis. Specifically, having isolated the relevant hearings, item #783, "does the judge give reasons for disposition" was run by judge presiding.

IV. The Baseline Data

To test whether or not there is greater formality in the Edmonton Youth Court after the implementation of the Young Offenders Act requires that we have baseline data on the pre-YOA court. Findings from the observational phase of the Solicitor-General of Canada's ""National Study On The Functioning Of The Juvenile Court (Edmonton Site)" provided this information.

A. The "National Study On The Functioning Of The Juvenile Court"

The Solicitor-General of Canada, ""National Study" On The Functioning Of The Juvenile Court" was intended to generate baseline data in six cities (Vancouver, Edmonton, Winnipeg, Toronto, Montreal and Halifax) for the future evaluation of the then forthcoming Young Offenders Act. Follow-up evaluations were to focus on the extent to which the new legislation was being implemented, the impact of policy proposals on the juvenile court process and young persons, the decision-making process and the organizational environment of the juvenile justice system. As of this writing, follow-up has not been initiated.

The baseline study was made up of three parts. First, observation of juvenile court cases as they were processed through the system from first appearance through to disposition. The focus was on the day to day operations of the court. Second, a survey of key legal actors including judges, crown prosecutors, defence counsel, probation officers and the police. Third, a survey of young offenders was planned but was eliminated after a pre-test at some of the six sites.

1. The Court Observation Phase

The Edmonton juvenile courts were located in a large office tower across from the Law Courts Building[3]. The courtrooms were large and had windows. With one exception the judge always sat at a raised desk in the front of the room. The bench faced desks for the crown prosecutor and defence counsel. Behind these desks were two to three rows of seats. Persons who were involved in a particular case sat in the front row. Police officers, the court clerk and court reporters were provided with places at the sides of the bench. These physical arrangements made observing courtroom hearings relatively easy.

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[3] The information provided about the baseline study in the Edmonton juvenile court is drawn from a descriptive site report prepared by Robert A. Silverman (1985).

From May 25 to July 30, 1981, six researchers including a project manager and the principal investigator, observed cases which appeared in the Edmonton juvenile court for the first time[4]. Cases included in the ten week observation period were identified by consulting the court docket[5]. The docket contained a list of juveniles' names, information about the type of charge they were appearing on (Juvenile Delinquents Act violation or contravention of some other act or statute); the court they were to appear in; what judge was presiding; and a court file number. Only those juveniles who were charged under the JDA and making a first court appearance became part of the sample. Juveniles charged under the Highway Traffic Act and Liquor Control Act or other municipal by-law violations were excluded unless they also had offences under the JDA. After the initial observation period, cases which had not been disposed of were followed up.

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[4] Twelve circuit courts serviced by the judges of the Edmonton juvenile court were also observed. A separate analysis was originally intended but this became impractical given the small number of juveniles in the sample (83). The data were aggregated.

[5] Dockets indicated to the researchers which cases were to be included in the study. Often dockets were prepared as much as three days in advance.

The research was exploratory in nature. Fieldworkers attended court on a daily basis and recorded information about those cases which were first hearings[6]. The effects of the research team on the court seemed to be minimal. Sometimes lawyers would inquire about what observers were doing in court. Key actors seemed to assume that if the presiding judge didn't ask a person who they were then their presence was legitimate.

Each observer obtained information about the courtroom hearing using a fixed-response observation schedule. Topical items included in the instrument: persons present in court, race of the juvenile, interpreter, prosecutor, representation for the accused, jurisdiction, arraignment, plea, facts, prior record, documents, witnesses, *voir dire*, motions to dismiss, fingerprints, summation, pre-adjudication termination of the charge, adjudication, post-adjudication statements, bail hearing, outcome of bail hearing, temporary absence, transfer hearing, review of disposition, residential status, hearing outcome, disposition, judges' reasons for disposition, adjournment and general court environment. Space was provided at the end of the schedule for the observer to record any characteristics of the hearing which could not be captured in the fixed categories. These items covered the many dimensions of a variety of court hearings.

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[6] When there was some question as to whether a juvenile was appearing for the first time this would be checked against the court files.

In the "National Study" (Edmonton site) it was common for two observers to attend a single court hearing[7]. Each recorded their observations. At a later date the two observation schedules were compared. This provided an inter-coder reliability check and was the principle quality control method.

Once a hearing had been observed and an observation schedule completed, a file card was made up and the case was assigned a unique three digit identifier number. These cards provided an alphabetical listing of all juveniles in the study. A ledger was also kept which recorded case number, name of juvenile, date of hearing, and court file number.

Each day the docket was checked against the project card file and the calendar of adjournment dates for cases already in the study. Cases adjourned to that date and all new cases would be observed. Any discrepancies over adjournment dates were found and corrected.

The system for picking up juveniles in the initial window period and following them through adjournment dates was not foolproof,. On occasion hearings would be missed. The "National Study" researchers attributed missed cases and hearings to court organization rather than inefficient court observers. Five factors contributed to missed hearings. Specifically: 1) a case was not listed on the docket; 2) if a case was not listed on the docket observers had often left the court before it was called; 3) the court clerk failed to call the observers into court; 4) a case was moved to another courtroom without the observers knowing it; and 5) court began before the usually scheduled time and before the prosecutor and other key actors were present. Files were consulted to extract critical information that may have been missed.

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[7] A third person often accompanied the paired-observation team so that they might complete the observation schedule before going on to the next case. When the next case came up the third observer would document it. This avoided compromising both cases.

2. The File Study

The file study was intended to supplement and to cross check information gained from the observational phase of the study. Each youth who appeared in juvenile court had a unique court file number. The court's card file was searched to generate these numbers. The court staff located a legal file for each juvenile in the sample and these were handed over to the research team[8]. Each file was consulted for juvenile's date of birth, correct spelling of name, legal information and complaint form and the disposition given by the court. Sometimes but not as a general rule the files might contain the notice of hearing; orders for detaining a juvenile or transporting him/her to different court, disposition orders (compulsory care, probation, supervision temporary wardship, extension of committal) , a social history, psychological and psychiatric assessments and review of disposition materials. Two people worked to extract the information and record it in the dossier control module[9]. One person would go through the file and read out the data while the other wrote it down.

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[8] If a juvenile's name was spelled incorrectly on the court docket it often was very difficult to track him/her down in the court files. Also some youths were add-ons meaning they were not listed on the docket which the court observers obtained but fit the criteria to be included in the sample. These names were obtained by listening to them be called out in court. A phonetic spelling was usually noted. It was difficult to trace these youths in the court records. Further, many juveniles were indexed under several names. These were not always cross-referenced.

Two problems were encountered in this phase. First, information was found to be missing from the files. Second, the files were sometimes illegible. Not all information was typewritten. Specifically some police information, the judge's adjudication, reason for adjournment and other remarks were illegible.

Not all information required for the dossier control module could be obtained from the court files. Detention centre records were required to obtain information on the dates when juveniles were admitted and discharged from detention. Police records were necessary for the names of investigating officers. In each situation a list was prepared with the names of juveniles for which information was sought. The night staff in each setting extracted the data. The research team offered to perform this task but were not invited to do so.

3. General Methodological Problems Of The Baseline Data

The ""National Study" On The Functioning Of The Juvenile Court" (Edmonton site) suffered from specific methodological problems. In broad terms: 1) the project was rushed into the field; 2) the goals of the research were never clearly specified; 3) the research design never appeared in written form; 4) there was a failure to outline operational definitions; 5) measurement devices and techniques were not clearly specified; 6) definitions of the task changed while the project was in the field; and 7) there was considerable recoding done in the face of these problems. All recoding was based on the judgements of those working outside the research site.

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[9] The dossier control module was a separate booklet designed for recording relevant information from the files. One of these modules was completed for each case in the study.

Two other specific problems plagued the baseline data. Although it can be said that there was really little conflicting information there were sometimes differences in the dispositions for sample charges recorded in the observation schedule and those recorded in the files. This problem generally arose when there were a number of charges before the court and when different charges resulted in different outcomes. In those instances where such conflicts were found the file data were taken to be correct and the information in the observation schedule was revised to reflect this.

The second specific problem with the baseline research concerned missing information. The identity of the investigating officer and probation officer often remained unknown[10]. Juvenile and parent descriptions were sometimes missing especially if some of the offences a juvenile was charged with were violations of the Motor Vehicles Administration Act. Missing information was coded as "don't know".

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[10] If no probation order was on file then this information was difficult to find.

It is important to note that there was never a preponderance of cases or instrument items with conflicting or missing information. This was confined to specific examples.

4. Implications Of Methodological Problems For The Present Study

The methodological problems of conflicting information and missing data in the baseline study were confined to a limited number of cases. However, the resolution of these problems has implications for the present study.

When conflicts were found between the dispositions for sample charges in the observation schedule and those recorded in the court files the observation schedule was revised to reflect the file data. Interestingly no attempt was made in the baseline study to analyze the discrepancies between the observed and file data[11]. This information was lost.

Recoding the observation schedules to reflect the file data means that in order to properly compare the baseline data with the comparative data this same procedure must be adopted in the follow-up study. Only then can we be sure that any differences in the findings are the result of the new legislation as opposed to a product of the coding process.

The missing data in the baseline study did not pose a serious threat to the overall validity of the findings. Specifically, it was the identity of the investigating officer and probation officer which were most often unknown. These were not critical variables in the analysis so final results were not adversely affected.

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[11] The file data is generated by clerks who record charge outcomes on legal informations. One has to wonder whether the clerks' notes are not just as subject to misinterpretation as those of the courtroom observers.

The decision to code missing data as "don't know" meant that at least the information was not entirely lost and the cases involved were not eliminated from the sample. Further the missing data were distributed randomly thereby eliminating concern over any systematic bias (Anderson, Basilevsky and Hum, 1983).

The problems of conflicting information and missing data as well as the general methodological problems outlined above are representative of the usual hazards involved when engaging in secondary analysis. Researchers engaged in secondary analysis have little control over the nature of the data or the data collection process. Consequently they may find that the data are less than ideally suited for their purposes (Golden, 1976). On balance the ""National Study" On The Functioning of The Juvenile Court" (Edmonton site) is best suited for the baseline analysis in this investigation because of its availability, the researcher's familiarity with the data and the lack of any other original pre-YOA data (Kiecolt & Nathan, 1985). It is necessary to rely on this research to fully assess the impact of the YOA on the functioning of the Edmonton court.

V. The Comparative Study

The present study like the baseline research focuses on courtroom proceedings[12]. It does not consider those changes which affect the functioning of the police department, the prosecutor's office, the Legal Aid Society, facilities for young persons or any other court related agencies.

As originally planned, the comparative study was to model the observational phase of the "National Study On The Functioning Of The Juvenile Court". There was to be systematic observation of all first court appearances in the Edmonton Youth Court during a ten week period. Cases not disposed of during this initial time frame were to be tracked through to completion. Four changes altered the original strategy. First, it became impossible for the researcher to observe all first court appearances[13]. Second, many cases were adjourned to the same date but to different courtrooms. One case was observed firsthand and the other(s) were picked up by listening to verbatim tapes of the relevant courtroom proceedings[14]. Third, the cases took much longer to close than those tracked in the "National Study". It was impossible for the researcher to remain in the field for the extended time period involved. Tapes were used to capture these hearings. Finally, it was originally thought that the court files would not have to be consulted. It became impossible to avoid this as individual cases became increasingly complicated. The files provided essential information about what charges were before the court, what dispositions had been given for individual charges when several were disposed of at the same hearing and changes in adjournment dates.

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[12] The current project was selected because of: 1) knowledge of the baseline data collection process; 2) familiarity with the juvenile court setting and a desire to continue work in this setting; 3) the baseline data needed to make comparisons was available; and 4) the necessary contacts to gain access to the research setting were available.

[13] There were so many cases before the courts that the dockets had to be split between two courtrooms many times. It was physically impossible to be two places at once with only one observer conducting the project. I always listened to those cases in Courtroom 44-the designated first appearance court.

[14] All court proceedings in the Edmonton Youth Court are recorded on tape. Listening to the tapes ensured that court hearings which were part of the sample were not missed. The only data which could not be captured using this method was who was present in court other

The comparative study was also a departure from the the baseline research in that the goals of the research were specified, a written research design existed, hypotheses were developed on the basis of a review of the relevant literature, and operational definitions were outlined.

A. Gaining Entree

Access to the research setting was gained with little difficulty. Three factors contributed to successful entree. First, the pre-existing relationship of the principal investigator of the ""National Study" On The Functioning Of The Juvenile Court" (Edmonton site) with the Senior Judge of the Edmonton Youth Court[15]. This individual

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than those key actors participating in the proceeding. Since this data did not jeopardize the research design listening to tapes was considered a viable solution to the problem at hand.

[15] Good working relations were established at many levels of the Edmonton courts during the course of the baseline research project. The principal investigator accompanied me to the initial meeting

arranged an initial appointment well in advance of the study to discuss the proposed project in general terms[16]. Second, a letter of introduction from the Senior Judge in another juvenile court in Canada[17]. Third, the Young Offenders Act. Under the new legislation the courts are open to the public. Research efforts may be pursued if the permission of the Chief judge is secured. Approval for the present research was secured because of the Chief judge's interest in the project in general; his general commitment to research efforts in the Youth court setting; his specific interest in one dimension of the project; and because confidentiality of the youths to be included in the sample was assured.

The strategy adopted here is best described as "progressive entree" (Johnson, 1975: 63)[18]. My initial request was for permission to sit in on court hearings for the purpose of making and recording observations. It was not until several months later that access to the court tapes and files was requested[19].

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where he introduced me, talked over general concerns from the other project and then left me to talk with the Chief judge alone.

[16] The initial appointment occurred eighteen months before the project actually began. The specific research plans changed during this time period but the original focus did not.

[17] My previous research on juvenile's understanding of legal language and court process had been conducted in the Winnipeg juvenile court. Before leaving I advised the senior judge who had provided me with access to the Winnipeg setting of my future research plans. He offered to write me a letter of introduction to the Edmonton court.

[18] Johnson (1963) explains "progressive entree" as making requests in stages as opposed to all at once.

[19] Both requests were made to the Senior Judge. He wrote a letter of introduction for me to the Clerk of The Court advising him of my research and asked him to help me with whatever I might need.

A research bargain was struck in the course of negotiating entree. Upon completion of the study there is to be a seminar for the judges of the Edmonton court. The findings of the study will be discussed with particular emphasis on the differences found among judges.

Before entering the field the Senior Judge of the Edmonton Court took me on a brief tour of the Youth Court. He introduced me to the court clerks, explained to them what I would be doing and asked them to provide me with any assistance which I might need. He also said that he would advise the other judges that I would be present in court.

B. The Research Setting

The Edmonton Youth Courts are located on the fifth floor of the Law Courts Building[20]. They are spacious, fully carpeted and have artificial lighting. The bench is raised at the front of each courtroom. The witness stand is located to the judge's right. There are tables for both defence counsel and the Crown prosecutor. The court attendant, a City of Edmonton police officer, has a small desk to the left of defence counsel's table. His desk is equipped with a telephone.

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[20] The juvenile courts observed as part of the "National Study On The Functioning Of The Juvenile Court" were located in an office building across the street from the Provincial Law Courts Building. This is a significant move. Youth courts are now in the same place as the ordinary courts. Also, during the course of the study all judges moved to this building. In the past judges offices were attached to a specific courtroom which they used exclusively. Now judges offices are on a separate floor from the courtrooms and they sit in a variety of courtrooms. These offices are inaccessible to anyone without clearance. This is viewed as a significant change.

The court clerk sits below the bench but is elevated above both the defence and prosecutor's tables. S/he has a telephone at their disposal. It is used to make calls to the outside desk where the court calendar is. Dates for trial and transfer hearings are secured in this manner.

There are generally five rows of high backed cushioned chairs in each Youth court. Lawyers appearing on cases usually occupy the first row. The rest of the seats are filled with non-detained youths and their families waiting for their cases to be heard, representatives from various agencies[21] or interested members of the general public.

As a court observer I sat in the back row in the chair located by the wall. This ensured that people were not getting in and out of the row in front of me and distracting my work. The acoustics and lighting in the courtroom were very good. This made the actual observations quite simple to do.

There are four courtrooms in the Youth Court area. Courtroom 44 is the first appearance court. There are lawyer-client interview rooms equipped with desks and telephones outside each courtroom[22]. Here defence counsel discussed cases with clients and their families. There was a limited seating area outside the courtrooms.

In the centre area of the Youth Court section is the main desk. Clerks of the Court sit and prepare files here, type up and explain disposition orders[23], answer telephones, file materials, respond to inquiries about where a particular case is being heard and accept payments for fines and restitution. The only entry to the back of the desk is through a door which will open when the proper access code is entered.

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[21] For example Native Counselling, John Howard Society or the Probation Services.

[22] I often used the lawyer-client interview rooms as a place to work after court adjourned for the morning or afternoon.

C. Data Collection

1. The Sample

The initial observation period ran from June 17 to August 23, 1985[24]. During that time all youths charged under the Criminal Code of Canada or the Young Offenders Act and making a first court appearance were picked up for inclusion in the sample. To determine who would be included in the sample the court docket[25] was consulted each morning. Dockets were usually prepared at least two days in advance. It became a standard practice to go the Clerk's desk on the actual court date and obtain the most recent copy[26]. This ensured that the researcher was aware of all new cases and any last minute add-ons.

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[23] Each youth is required to sign their disposition order. The clerks went over the terms and conditions of the disposition and asked youths if they understood.

[24] There has been considerable discussion in the implementation research literature about how much time should pass before observers begin to study the impact of a particular innovation (Casper and Brereton, 1984). It is important to allow sufficient time from when an innovation occurs to when one enters the field. Failure to do so may mean that certain secular trends are masked or what is observed is an reaction to the innovation and not real change. In the present study over one year went by from when the YOA was implemented to when observation of the courts occurred.

[25] The court docket provided a list of the names of youths appearing in court, what they were charged with (i.e. what section of the Criminal Code of Canada had been violated), their court file number *and the courtroom they were appearing in.* Courtroom number was generally noted on the top right hand corner of the docket.

The morning session of court began daily at 9:30 am and the afternoon session at 2:00[27]. I generally arrived around 8:30 so as to have time to prepare for court.

Each time a juvenile appeared in court an observation schedule was filled out. A single court appearance was defined as a court hearing. The numbering system from the ""National Study"" was followed to keep track of where a juvenile was at in the court process. In particular, the first time a juvenile appeared in the sample s/he would be said to be at Event 01, Hearing 01. Event 01 refers to the charge(s) the juvenile faced and the fact that it was the first set of charges which the study was following. Each time an appearance was made on these charges Event 01 would be noted along with a specific hearing number. For example, Event 01, Hearing 02 meant a youth was appearing on the original set of charges for the second time. If during the course of the research a juvenile was reinvolved on a second set of charges this would be referred to as Event 02 and each hearing would be numbered from 01 forward until such time as those charges were disposed of. It was sometimes the case that all a juvenile's charges would come together and be dealt with at the same time. This was defined as a "merging" of events and a unique number was assigned for event and hearing to denote this[28].

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[26] During the first week I learned quickly about the clerks' schedule. A calendar is prepared which assigns clerks to different courtrooms. The others work at the desk, type up disposition orders as they are rendered by the court and work with the court files for the day. By Friday of my first week at Youth Court I was able to recognize the clerks' faces and they were getting used to me asking for the morning and afternoon dockets. On the second Monday of the study I arrived to find almost all new faces behind the desk. Only one woman remained from the first week. I later learned that the clerks are divided into two groups. They rotate between the Youth Court and Family Court on a monthly basis. When working in the Family Court they are located across the street from the Law Courts building in Century Place.

[27] Some judges would adjourn cases to begin at 1:00 or 1:30. Prosecutors and lawyers went along with this arrangement.

To keep track of the cases in the initial observation period each was assigned a unique three-digit identifier number beginning with 001. This number was recorded on the observation schedule and a separate file card. In addition, the name of the youth, the date of each court hearing and the court file number assigned to the case were documented on the file card. If there was to be a subsequent court hearing then that was also recorded on the card.

To ensure that no court hearings were missed and that all were followed up adjournment dates were recorded in a separate calendar. Each day this calendar was consulted to see who was making an appearance. This was checked against the docket also.

Cases which were not disposed of during the initial observation frame were followed up. This ensured that complete cases were documented. It also allowed the follow-up data to be properly compared with that collected in the baseline study.

A major difference between the "National Study" and this one was the number of researchers involved. In this project only one researcher did the observing. Quality control was achieved at Time 2 data by working with the pre-established codes in the observation instrument. As stated earlier the principle problem in the baseline research was that the codes used in the observation schedule were constantly changing. The result was that complete instruments had to be recoded. These never-ending changes created coding difficulties and undermined the quality of the data. At Time 2 only the finalized codes from the baseline research were employed. There was no changing of codes during the course of the study.

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[28] A specific code (number 97) was developed to denote a merging of events.

2. The File Study

As previously noted a file study was not originally planned as part of the comparative study. It was necessary to consult the files because of the complicated nature of of many cases in the sample. The files provided essential information about a youth's age, who was present in court, whether a lawyer acted for a youth, who the lawyer was, whether jurisdiction was ascertained, what charges were before the court, adjournment dates and the outcomes and dispositions in particular cases[29]. Besides providing critical information the file study was a worthwhile check on the data collected in the observation instrument. It served as a principal method of quality control in the comparative study. As with the Time I data when discrepancies were found the files were deemed to be correct and the observation data was corrected.

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[29] A summary sheet was found in the front of most files. It contained information on the date of hearing, judge presiding, courtroom number, whether a lawyer acted, sometimes the name of the lawyer, whether a youth pleaded and an adjournment date. This was a pre-printed form so many items were simply checked off instead of written in. This helped to overcome the problem of deciphering people's handwriting which was encountered in the baseline research.

A single page form was constructed to record information[30] (See Appendix B). One form was completed for each hearing which a youth experienced on a given charge(s). This strategy followed that adopted in the observational phase of the research where a single observation schedule was completed for each hearing observed.

The file study did not begin until after the initial observation window was closed. Permission to access the files was obtained from the Senior Judge who wrote a letter on my behalf to the head Clerk of the Court. The Youth Court files are housed with the Family Court files and take up a large part of an entire office floor[31]. There was a rotating card file in which youths' names and their court file numbers were listed. It was necessary to obtain the correct file number before an actual file could be retrieved.

When I began the file study I was unfamiliar with the organization of the court records. One of the office staff explained how the card file worked, the numbering system and where the files might be found. It became relatively straightforward for me to locate the needed materials. I did not rely on the court staff[32].

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[30] Limited use of the files meant that many of the missing information problems which the National Study researchers encountered were overcome. The data they had trouble getting was not required at Time 2.

[31] There is one exception to this. If a youth was presently appearing before the court, fulfilling the terms of a disposition order or the case was under review the file would be at the Youth Court desk in the Law Courts Building. An underground tunnel connects the two buildings. This made it easy to go between the two.

Most of the court clerks were very familiar with me by the time the file study was initiated[33]. They offered assistance whenever there was a problem locating a file. A desk was provided where I could work and by the end of the project I had been given my own office[34].

The tapes for the courtroom proceedings were kept in the file area[35]. As I checked through the files for relevant information it became relatively easy to determine whether there were any missed hearings in a particular case[36]. The tape number and the point at which a proceeding was recorded on was noted in the file[37]. The tape was located, listened to and an observation instrument completed[38].

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[32] This is in sharp contrast to the approach in the file component of the National Study where the court staff obtained the needed materials for the research team.

[33] I was often invited to join them on coffee breaks, for lunch and special events. Although I did not always do this I participated on a regular basis.

[34] After the judges moved their offices to the Law Courts Building there was alot of unused space.

[35] Late in the project many of the tapes were moved into boxes and transported to an area near my office. The reason was a lack of space for more recent tapes. Eventually old tapes go to archives.

[36] The only hearings which were missed in the comparative study were those for which no tape was found. Although this was relatively uncommon a few blank tapes were found. A new court clerk had made some errors in operating the recording equipment and the proceedings were not taped. These hearings were lost but are not considered to have seriously affected the quality of the data.

[37] If I found an error in the footage I would advise someone in the office. As this served to correct the court records it became a valuable service. The clerks appreciated it and it became a form of reciprocity between myself and the court.

The large sample meant that the file study and listening to tapes took considerably longer than anticipated. Access to the files after regular working hours and on weekends[39] helped to complete the project faster than would have been otherwise possible.

D. The Observation Schedule

A modified version of the fixed-response observation schedule used in the ""National Study On The Functioning Of the Juvenile Court" was adopted in the comparative study. The final coding instructions and procedures developed by the Solicitor-General of Canada were also accepted and employed[40]. The demographic variables of age and sex were added to the schedule at Time$_2$.

The original instrument was developed in the Toronto juvenile court. The result- a good fit between the instrument and the observed Toronto court and a poor fit between the instrument and what was observed in the Edmonton court during the "National

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[38] Tapes were treated like actual court hearings. At no time were they replayed to obtain further information or clarify what was heard.

[39] While I was working one Friday the Senior Judge came to talk to me about a research proposal which had come across his desk. He asked if I might have the time to look at it and provide him with comments. I said that I would look at it this weekend since I wouldn't be looking at files then. He inquired whether having after hour access would help my work. When I said it would he arranged with the head Clerk of the Court to have keys made for me for the outside office tower, the work area and the files. This expedited my work considerably.

[40] As noted previously, the final version of the coding instructions and codes were employed here.

Study". Specific items proved particularly problematic in the research setting This is not surprising. As Bala and Corrado (1985) describe in their technical report there was great variation in the six courts studied as part of the "National Study". Although the Edmonton and Toronto courts both operated within the same legislative framework, the Juvenile Delinquents Act, there were many organizational and philosophical variations between them. This may well have resulted in very different courtroom proceedings. One court in Canada might have had very formal proceedings while another could have had very informal proceedings. As a result of such differences an observation instrument developed in Toronto would work well when Toronto juvenile courts were observed and not well when applied to the Edmonton court proceedings.

What is striking about the use of the observation schedule in the Edmonton court after the implementation of the Young Offenders Act is the goodness of fit which was found. Many of the difficulties previously encountered no longer applied. It is the author's contention that the Toronto court may well have reflected the new law before it was implemented while Edmonton may have not and this would explain the difficulties encountered in using the same observation schedule in the baseline study and the relatively few difficulties in the comparative study.

The specific instrument problems found in the baseline study are identified and discussed below with reference to the relevant observation item[41]. Their status in the comparative study is also addressed.

1. Persons Present: Items 78-82

The coding of these items changed after the initial study began. This was particularly problematic when the item had been applicable in a given observation and recorded prior to the change. The only way that the recoding was possible was if the observed had kept written notes about a particular hearing. Some information may have been lost as a result.

No recoding of these items occurred in the comparative study. This was no longer problematic.

2. Representation For The Accused: Items 94-95

It was easy for court observers to determine whether or not someone was representing the accused (Item #94) however it was not easy to determine what kind of representation the juvenile had. For example, was the lawyer "retained", "legal aid" or other? Further the only way to identify duty counsel was if s/he wore a badge.

As before it was easy to determine who had counsel and who did not. Identifying what kind of representation an accused had was overcome in many cases. Specifically, under the new Young

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[41] The reader is advised that other problems were encountered with the document (items 202-265), witness (items 266-438), post-adjudication statements (items 514-519; 535-540; 556-561; 577-582; 598-603), disposition (items 763-780) and the review of disposition (item 719-721) sections of the observation schedule. The specifics of the problems are not discussed here because none of these items were used in the present analysis.

Offenders Act each youth is entitled to legal representation. If s/he cannot afford counsel then someone will be appointed. The presiding judge can order Legal Aid. On many occasions a judge would say in court "In the event that Legal Aid is denied I am ordering that counsel be appointed under YOA 11(4)". In these cases it was fairly easy to determine whether counsel was "privately retained" or from Legal Aid.

It is interesting to note that duty counsel always wore a badge during the follow-up study. This solved the identification problem experienced by the "National Study" observers.

3. Jurisdiction: Items 98-108

In the Edmonton juvenile court jurisdiction did not seem to be that important of an issue. Sometimes it was completely ignored and at other times it was ascertained more than once in a particular case. The usual method was unsworn testimony. Jurisdiction was frequently ascertained under the Young Offenders Act.

4. Plea: Items 124-136

This section was very difficult to complete unless the legal information was read verbatim and there were only a few charges before the court. This data was usually obtained from the legal files rather than from the court hearing.

A second problem in this section was the limited space provided to record the charges. Any charges which did not fit into the allotted space had to be noted at the bottom of the page.

Almost all charges before the court during the comparative study were read verbatim[42]. Except for those cases when there was a large number of charges before the court this section was fairly easy to complete. As before problems were resolved by consulting the legal files.

Space continued to be a problem in the follow-up study and charges which did not fit into the lines provided were recorded at the bottom of the page as before.

5. Prior Record: Items 153-201

Prior record was rarely mentioned in any specific terms under the JDA. Usually the only reference was to "no prior record". Written statements of prior record were occasionally introduced at transfer hearings but never at regular hearings.

Prior record was frequently mentioned at young offender hearings. The presiding judge would ask the Crown prosecutor to read the record aloud in court or the prosecutor would read it without prompting. This was a standard procedure.

6. Pre-Adjudication Termination Of The Charge: Items 484-490

Reasons were seldom given for why there had been a pre-adjudication termination of the charge before the Young Offenders Act. This was often not the case when the court was observed after the implementation of the new law. Reasons for a pre-adjudication termination of the charge became more readily identifiable.

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[42] The judge asks the Clerk of the Court to read out the charges as written.

7. Bail Hearing: Items 615-665

In a number of cases both crown and defence counsel were present at a bail hearing but neither had the onus for proving that the child should be detained. Usually the onus fell on a court liaison officer or a case worker. This caused problems in items 620 and 621. Specifically, item 621 is a conditional response. If an observer recorded "no" it became difficult to get to "conditions of bail" (items 651-665). To overcome this, item 621 was recorded as "yes" if a juvenile was released and the Crown had not said anything. This made it possible to get to "conditions of bail".

Section 7 of the Young Offenders Act establishes that the onus is on the Crown to demonstrate why a youth should be detained. The conditions of bail section was easier to reach as a result.

8. Outcome of Bail Hearing: Item 681

After the initial study was underway more codes were required for this item. This meant that later in the research a recoding took place. This affected the quality of the data. No recoding took place when the court was observed again.

VI. Methods Of Analysis

The data collected after the implementation of the Young Offenders Act was placed in an SPSS-X format. The analysis for measuring the formality hypotheses was principally comparative. Comparisons were made between specific elements of pre-YOA hearings/cases and post-YOA hearings/cases (group-group comparisons). The descriptive statistics of variance and standard deviation were especially useful because they provided information about the magnitude of differences between items of interest from the baseline and comparative data. The primary statistics used were the difference of means and difference of population proportions tests. They were particularly well-suited for the research hypotheses intended to measure formality in the court after the YOA. Specifically, this research is interested in whether the court functions the same now (post-YOA) as it did before (pre-YOA) and in whether some specific phenomena occurs more often after the new law than it did before. The difference of means and population proportions tests assume that the two populations being considered are normal, they have the same variance and that they are independent random samples from the two populations under consideration. While the difference of means and population proportions tests assume that the two populations being considered are normal, they have the same variance and that they are independent random samples from the two populations under consideration, the assumptions of independent random sample is not met in the present research. In fact, two populations are compared. As a result, it might be argued that one could simply look at the variables of interest at Time 1 and Time 2 and evaluate whether there are in fact differences. However, employing the statistical techniques of differences of means and differences of proportions tests may serve as a guide to the magnitude of differences in the variables between the two times of interest. Further, the use of these statistical techniques avoids the bias which might be introduced in the interpretation if the research relied exclusively on the subjective evaluation of the observed differences.

It is important to note that in measuring formality all variables of interest were standardized by the total number of cases or hearings[43]. Standardization was necessary because there were considerably more cases and hearings observed in the comparative study than in the baseline study. Failure to standardize would have made it impossible to compare "mean" values and in fact may have led to incorrect conclusions about the specific hypotheses outlined above.

The set of hypotheses labelled "measuring uniformity" are directed toward comparing judges of the Edmonton Youth Court in terms of specific courtroom procedures which have been mandated by the new Young Offenders Act. In the past, judges had a great deal of leeway in the running of their courtrooms. The YOA is intended to change this and it is therefore expected that there will be greater uniformity in judges' behavior under the new legislation. Variation in how judges interpret different aspects of the new law are still expected. As noted previously only inter-judge comparisons in the post-YOA court will be made because data for how judges behaved under the JDA was not available.

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[43] A z score was calculated to translate a sample mean difference into units of standard error of difference. The z score is most appropriately used when comparisons are made between two means, there is interval level data, random sampling, a normal distribution, the population standard deviation is not known and the sample size is larger than 30.

This part of the study focused on comparing the means of more than two independent samples. Specifically, more than two judges in the Edmonton YOA court are being compared to see how they respond to particular elements of the new law and not in how much of the observed variation could be explained. As such, the analysis of variance (ANOVA) test was employed here. The main effects of this test and not the residuals were the primary focus in this study. These results make it possible to see if there is a lack of uniformity in how judges respond to the new legislation.

VII. Summary

There are two principle hypotheses which guide this study. First, there will be greater formality in the court after the implementation of the Young Offenders Act. Second, there will be a lack of uniformity in how judges respond to the new legislation. This chapter has outlined how both formality and uniformity are to be measured. In particular, a number of specific hypotheses were stated. Operational definitions were given and reference made to the relevant observation schedule items.

The baseline study was described in this chapter. Methodological problems were outlined. Their implications for the current research were addressed as part of a more general discussion on the hazards of secondary analysis.

An account of the comparative study was provided. How the researcher gained entree into the field and the data collection process were described. The observation schedule used in the present investigation was discussed with reference to specific items, the problems encountered in the baseline study and how these were dealt with in the comparative research.

The methods of analysis were outlined. For both the formality and uniformity hypotheses the descriptive statistics of standard deviation and variance are employed. The difference of means and population proportions tests are best suited to measuring formality while analysis of variance (ANOVA) is best suited to measuring uniformity.

The findings of this research will be presented in Chapters 4 and 5. Chapter 4 will describe the results of the formality hypotheses and Chapter 5 will describe the findings for the lack of uniformity hypotheses.

CHAPTER 4: TEST OF FORMALITY HYPOTHESES

I. Introduction

One of the two principle hypotheses in this study is that there will be greater formality in the Edmonton Youth court after the implementation of the Young Offenders Act. As outlined in the methods chapter this study employs seven major indicators of formality. These indicators are used as section headings in this chapter to organize the findings for the empirical tests of hypotheses.

This chapter will provide an overview of the general observed differences between youth in the Edmonton court as it operated under the Juvenile Delinquents Act and youth in the Edmonton court after the implementation of the Young Offenders Act as indicated by the research findings. The results for the test of formality hypotheses will also be presented.

II. General Characteristics Of Observed Youth

During the initial ten week window period of the "National Study On The Functioning Of The Juvenile Court" in 1981 when the Edmonton juvenile court was observed 250 cases were picked up for inclusion in the sample. These cases were tracked from first appearance through to final disposition and resulted in 579 court hearings being observed. Seventy six percent of the sample (N=250) in the baseline study were male and twenty four percent (N=250) were female. The majority of youth (46%, N=250) were 15, twenty seven percent (N=250) were 14, fifteen percent (N=250) were 13, eight percent (N=250) were 12 and four percent (N=250) were 11 years of age or less. Further, 170 of the 250 juveniles studied were

Caucasian with only 12% or 30 youth classified as native Canadians. It is important to note that courtroom observers could not clearly identify race of the juvenile in 17% of the cases.

During the ten week period in 1985 when the court was observed 517 cases were included as part of the sample. As before, these cases were also tracked from first court appearance through to final disposition resulting in 1433 hearings being observed. The sample was composed of 77% male and 23% female. The age of youth ranged from 12 to 18. The majority of youth (50%) in the post-YOA sample were 15 years of age or younger while 47% were 16 years of age or older. Specifically, 4% (N=517) were 12 years of age or less, 9% (N=517) were 13, 17% (N=517) were 14, 21% (N=517) were 15, 23% (N=517) were 16, 23% (N=517) were 17 and 1% (N=517) were over 17[1]. Most youth in the Young Offenders Court were also white Canadian 59% (N=517). Native Canadians comprised 15% (N=517) of the sample and "other" racial/ethnic groups 20% (N=517). Thirty one youth could not be classified into one of the pre-established race categories from observation alone.

A comparison of these general demographic characteristics of juveniles in pre- and post-YOA Edmonton courts seem to suggest that with the exception of sex of youth in the sample the courts are different at these two points in time. Specifically, 2.1 times as many cases were tracked through the YOA court than the juvenile court and 2.5 times as many hearings were observed. Further the race and age composition of the sample groups seemed to change when compared with a similar amount of time during the baseline study. To determine if these apparent differences were real or a function of the sample sizes it was necessary to perform statistical tests[2]. Tables comparing these demographic characteristics as well as tables for the tests of the formality hypotheses can be found in Appendix C.

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[1] One youth (.1%) under age 11 was in the sample as well as four youths over age 17 (.8%). No age information was available for seventeen youths (3.3%).

A. Sample Sizes

When the functioning of the Edmonton court was observed for ten weeks under the Juvenile Delinquents Act 250 youth were included in the sample and 579 court hearings were observed. After the implementation of the Young Offenders Act 517 youth and 1433 hearings made up the sample. A difference of population proportions test was conducted to determine if the number of cases to hearings changed with the implementation of the YOA (Table 2). This test showed that in fact there are no more cases in relationship to the number of hearings after the YOA than before.

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[2] Difference of population proportions tests were used to test the observed differences between the number of cases and the general characteristics of youths in the pre- and post-YOA courts as well as the formality hypotheses. A .05 level of significance was used to test each hypothesis. It is important to note that much of the data available from the National Study was in tabular form and was subjected to recoding by individuals outside of the Edmonton site. To avoid possible misinterpretations in comparing the "National Study" data and the post-YOA data only the actual frequencies from these two data sets were used in the population proportions tests. This was felt to be a better measure of what was observed before and after the implementation of the new law.

B. Sex of Juveniles

Both before and after the implementation of the Young Offenders Act males made up approximately 76% of the sample and females 24%. Specifically, under the Juvenile Delinquents Act of the sample 76% (N=250) were male while 24% (N=250) were female. After the Young Offenders Act 77% (N=517) of the sample were males and 23% (N=517) were female. Statistical tests demonstrate that there are no significant differences in the proportion of males and females to the total number of cases who appeared in the court before and after the new legislation (Tables 3 and 4).

C. Age of Juveniles

The Young Offenders Act significantly changed the jurisdiction of the court. Previously, the court dealt with all youth who were between ages seven and sixteen years of age. Under the new legislation the courts see youth between the ages of twelve and eighteen years. Given these changes in jurisdiction it is not meaningful to actually compare individual age categories for differences but it is important to note that in the post-YOA data 50% of the sample was 15 years of age or younger while 47% were 16 years of age or older.

D. Race of Juveniles

Caucasian constituted the majority of the sample both before and after the implementation of the Young Offenders Act. For purposes of this investigation difference of proportion tests were first run to see if the proportion of white Canadians, native

Canadians, "other" racial/ethnic groups and "don't know" to the total number of cases were different at the two points in time observed[3]. The results of these tests indicate that the proportion of Caucasian and "other" racial/ethnic groups as well as the don't know category to the number of cases in the sample after the new legislation are in fact different from the proportions in the pre-YOA sample (Tables 5,7 and 9). The proportion of native Canadian youth to total number of cases was not different at the two points in time considered (Table 11). Additional tests also showed that the proportion of Caucasian to total number of cases is less, the proportion of "other" racial/ethnic group youth is greater and the proportion of youth who could not be classified into the pre-established racial/ethnic categories was less after the YOA than before (Tables 6,8 and 10). This was not true for the other group described.

III. Tests Of Formality Hypotheses

A. Key Actor Findings

The frequencies for item #93 of the observation schedule showed that Crown prosecutors were active in only 113/579 hearings in the JDA court whereas they participated in 1408/1433 hearings in the YOA court or 20% and 98% respectively. Hypothesis one predicted that proportionately more Crown prosecutors would participate in the juvenile court process after the implementation of the Young Offenders Act. The test of hypothesis one considered whether the proportion of Crown prosecutors to total number of hearings was greater after the implementation of the YOA (Table 12). The results indicate that the apparent difference proved to be statistically significant ($p< .05$). Hypothesis one was supported.

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[3] Other racial/ethnic groups include Negro, East Asian (mainly Chinese, Japanese), South Asian (mainly East Indian, Pakistani) and all others.

It is interesting to note that prior to the new legislation the majority of prosecutors in the Edmonton court were non-uniformed police officers. In fact they acted in 65% of (N=579) hearings. In the Young Offenders court police officers acted as prosecutors in only .2% (N=1433) of hearings.

Hypothesis two stated that proportionately more defence lawyers would participate in the court process after the implementation of the Young Offenders Act. In fact, defence lawyers were active in 58% (N=579) hearings before the new legislation and 72% (N=1433) hearings after. The test of this hypothesis shows that the proportion of defence lawyers to total number of hearings was greater after the implementation of the new legislation (Table 13). This difference was statistically significant ($p< .05$), thus supporting hypothesis two.

Youth had various types of legal representation in the two observation periods. Specifically, duty counsel, legal aid lawyers, retained representatives, agents for retained representatives and other counsel were active (Table 16).

TABLE 16

TYPES OF LEGAL REPRESENTATION AVAILABLE
ALL HEARINGS COMBINED

	TIME 1	TIME 2
DUTY COUNSEL	201	269
RETAINED REPRESENTATIVE	35	167
LEGAL AID LAWYERS	1	488
OTHER	3	13
AGENT FOR RETAINED REPRESENTATIVE	0	27
DON'T KNOW	100	36
NOT APPLICABLE	239	433
TOTAL	579	1433

Some youth had no legal representation throughout their entire cases, some always had duty counsel present, others always had some representation whereas a few youth only had representation at some hearings. In a few cases youth had a unknown mix of legal representation.

The findings of the "National Study" (Edmonton site) indicated that the number of white juveniles who never had any sort of legal representation was much greater than for native Canadians (34% vs 17% respectively)[4]. Under the new Young Offenders Act right to legal counsel is secured for all youth independent of the wishes of a youth's parents and at all stages of the proceedings. One would expect that this right should also be independent of a youth's race. Under the old Juvenile Delinquents Act the right to counsel was not secured for all youth and this may partially account for the observed differences between white and native Canadian youth reported in the "National Study" findings. Since the intent of the new Young Offenders Act is to make it possible for all youth to secure counsel it was hypothesized that the differences between racial groups would no longer be observed when the court was examined in the comparative study - the null hypothesis would be supported. Specifically, there would be an equal degree of representation for white and native Canadian youth.

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[4] As Robert Silverman (1985: 58) points out in his descriptive site report of the Edmonton court based on the "National Study of the Juvenile Court" the N's for this finding were very small and the chi-square was not statistically significant. This investigator used these findings from the baseline data only to test hypothesis 3. It provides the reader with a useful point of reference.

To properly test this hypothesis juveniles were considered on a case by case basis. Also, only those youth classified as white and native Canadians were included in the analysis. Using a difference of population proportions test no statistically significant differences were found in the degree of representation between white and native Canadian youth after the implementation of the YOA (Table 15). The null hypothesis was thus supported.

The "National Study" (Edmonton site) findings showed that juveniles who had a prior record (previously found to be delinquent) were more likely than juveniles without a record to be represented by counsel. In fact, "one third of those who never had a prior finding also never had a legal representative compared to only 16% with a prior finding of delinquency" (Silverman, 1985: 60). This relationship was predicted to hold true in the new Young Offenders court as well. In particular, hypothesis four stated that youth with a record are still more likely to have defense counsel after the implementation of the YOA than youth without a record. The test of this hypothesis found that there was no support for this (Table 16). Specifically, of the 420 youth in the sample who had counsel only one hundred and forty five of them also had a prior record compared to two hundred and seventy five who had no record.

B. Case Processing

Under the Juvenile Delinquents Act, the average time required to process a case from first to last hearing was 44.785 days. After the implementation of the Young Offenders Act the same process took 46.735 days. Hypothesis five predicted that there would be more delays in case processing (time to move a case from first to last hearing) after the implementation of the YOA but in fact the amount of time involved before and after the new legislation was not significantly different.

It is interesting to note that under the Juvenile Delinquents Act 62% of all cases observed were completed in one to two hearings. The remaining 38% took between three and ten hearings to close[5]. When the Young Offenders court was considered 56.7% of all cases were completed in one to two hearings while the remaining 43.3% took between three and twelve hearings to close[6].

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[5] More specifically 19.6% (N=250) involved three hearings, 14.8% (N=250) took four to five hearings and nine cases 3.6% (N=250) took between six and ten hearings.

[6] Ninety three cases (18%) took three hearings, 84 cases (16.3%) took four to five hearings, 45 cases (8.7%) took between six and ten hearings while one case (.2%) took eleven hearings and another (.2%) took twelve hearings.

Legal representation was thought to be one variable which might affect the time a youth spends in the court process after the new legislation was in effect- a view supported by the literature reviewed. The data show that when post-YOA youth were not represented by counsel the average time from first to last hearing was 48.183 days and for youth who were represented average time was 46.417. When these two means were compared a z score of -.483 resulted meaning that there is no statistically significant difference in the amount of time it takes to process a case when youth are represented and not represented by counsel.

All cases were partitioned into two groups. Group one consisted of all cases which entered the observation period before July 24, 1985 and category two of all relevant cases after July 24th. This date was seen as important because the judge presiding in the first appearance court announced that a form had now been devised for all youth seeking counsel through Legal Aid to pick up immediately after their first appearance and take to their scheduled appointment. This form was intended to expedite the process because in the past youth would make a first appearance, go to Legal Aid, return to court without counsel, require another adjournment to go back to Legal Aid and obtain counsel under a judge's order.

The findings in this research indicate that before July 24th cases in general took 48.662 days to process whereas after the 24th of July they took 43.147 days. A highly significant z score of -9.363 from the difference of means test indicates that cases which entered the system after the date of the change actually took less time to complete. The control variable, legal representation, was introduced and the data then showed that before the 24th there was no significant difference in time to process a case if a youth had counsel or did not have counsel. Specifically, without counsel a case took 48.163 days to complete whereas 50.906 days were required when counsel acted for a youth. A z score of .562 indicates no statistically significant difference between these two situations. The same results were observed for the control variable, legal representation, after July 24th. For youth with counsel, cases took 43.351 days to move from first to last hearing. With counsel, cases took 42.207 days. The difference of means test resulted in a non-significant z score of -.242.

When the control variable, prior record, was introduced the data showed that youth with a prior record and appearing before July 24 took 53.655 days to go from first to last hearing while youth with no prior record took 47.023. The difference of means test produced a z score of 2.013 indicating a significant difference. Interestingly, after July 24th youth with a prior record averaged 37.196 from first to last hearing while youth with no prior record took 45.487 days to complete the same process. The difference of means test resulted in a z score of -4.052, a finding which is statistically significant.

Hypothesis six predicted that youth with a prior record would experience more delays in case processing after the implementation of the YOA that those with no prior record. This prediction was made in light of the "National Study" findings for the Edmonton site. Specifically, under the Juvenile Delinquents Act, juveniles who had no prior record moved from first to last hearing most quickly while those with a prior record took longer to have their cases disposed of.

The post-YOA data show that the average number of days to process a case from first to last hearing was 47.336 days for youth who had a prior record and 46.525 days for youth with no prior record. A difference of means test resulted in a z score of -.22 indicating that there is no significant difference between youth who have a prior record and those who do not and the amount of time it takes to process their respective cases.

Very few hearings were set over for trial in the Edmonton court under the Juvenile Delinquents Act. Specifically, only 12.3% (N=579) of all hearings. During the comparative observation period 12% (N=1433) hearings were set over for trial. Hypothesis 7 predicted that proportionately more hearings would be set over for trial after the implementation of the Young Offenders Act than before. The difference of proportions test showed that there were in fact no significant differences in the number of hearings set over for trial to the total number of hearings observed in the JDA and YOA courts (Table 17).

C. Hearings

Assuming that the Edmonton Young Offenders court is in fact more formal than the court which operated under the Juvenile Delinquents Act it was hypothesized that proportionately more hearings would be adjourned for plea after the YOA than before. This was the basis for hypothesis 8. The difference of proportions test supported the hypothesis as stated. There are more hearings adjourned for plea to total number of hearings after the implementation of the YOA than before (Table 18).

Unlike the Juvenile Delinquents Act, the Young Offenders Act specifies bail hearing procedures. In the past, no clear guidelines for judicial interim release existed. As the "National Study" investigators reported formal bail hearings did not take place in Edmonton. Whenever bail was discussed in the course of a hearing it was done on an informal basis (Silverman, 1985:108). As noted in the methods chapter, one hundred and eight bail hearings were said to have taken place in the Edmonton juvenile court during the observation period. This number was reached as a result of a recoding process done by individuals outside the research setting. The principle investigator warned that this number should be viewed and interpreted cautiously. Given these problems the present study focused on whether or not bail/detention was discussed at more hearings after the YOA than before. Frequencies for the observation schedule item which measured this variable were compared for the pre- and post-YOA court. No attempt was made to decide when bail hearings had or had not taken place or to recode data to indicate a bail hearing had occurred.

Hypothesis nine predicted that there would be proportionately more hearings where bail/detention were discussed after the implementation of the YOA. A comparison of frequencies showed that under the Juvenile Delinquents Act bail/detention was discussed in 19% (N=579) hearings whereas under the Young Offenders Act these same two issues were discussed in 15% (N=1433). A statistical test of the differences between these two population proportions however showed that there were in fact no significant differences in the number of hearings in the YOA court when bail/detention were discussed to the total number of hearings observed (Table 19).

Hypothesis 10 predicted that given the age changes in youth appearing before the court jurisdiction would be ascertained at proportionately more hearings with the implementation of the YOA. In fact, jurisdiction was ascertained in 39% (N=1433) of hearings after the new legislation compared to 52% (N=579) under the Juvenile Delinquents Act. These proportions were not significantly different (Table 20).

D. Reports

Hypothesis 11 predicted that more social reports would be requested after the implementation of the YOA. A comparison of frequencies for item #811 (the measure of this hypothesis) showed that during the "National Study" observation period 3.6% (N= 579) of hearings were adjourned to obtain social reports. After the implementation of the YOA 13.4% (N=1433) hearings were adjourned to get more social reports (Table 21). The difference between these two proportions proved to be statistically significant ($p < .05$). The hypothesis that the proportion of hearings adjourned to get social reports to the total number of hearings after the implementation of the Young Offenders Act than before was supported.

E. Motions

Technical motions in this research were operationalized as *voir dires* and as requests by the Crown prosecutor for two days notice to prepare for a bail hearing, arguments made on the basis on the new

Canadian Charter of Rights and Freedoms and Constitution. Hypothesis 12 predicted that there would be proportionately more technical motions in the Youth Court after the implementation of the YOA.

Two items in the observation instrument served as measures of technical motions. As a result, frequencies for both items were examined to determine whether there were more technical motions after the YOA. In the pre-YOA court only .9% (N=579) hearings involved *voir dires* compared to 1.0% (N=1433) hearings in the post-YOA court. The difference of proportions test showed that there were no significant differences in the proportion of *voir dires* after the YOA then there were before (Table 22). However it is suggested that these results be treated with a considerable degree of caution, because for the majority of hearings in both observation periods *voir dire* was a "not applicable" item. This makes the results largely non-interpretable.

When the second indicator of technical motions was examined it was found that like *voir dires* very few arguments were made which involved requests by the Crown prosecutor for two days notice to prepare for bail hearings, arguments on the basis of the new Canadian Charter of Rights and Freedoms and the Constitution. Specifically, these occurred in only .7% (N=579) hearings in the JDA court and .7 % (N=1433) hearings in the post-YOA court . The test to determine differences of proportions showed that there are proportionately no more of these types of arguments in relationship to the total number of hearings after the implementation of the new legislation than there were before (Table 23).

F. Plea Bargaining

Hypothesis 13 predicted that there would be proportionately more plea bargaining after the implementation of the YOA. The baseline data showed that prior to the Young Offenders Act pleading guilty to a lesser and included offence occurred in only .7% (N=579) hearings observed. After the new legislation this was observed in 1% (N=1433) hearings (Table 24). The difference of population proportions test demonstrated that there are no statistically significant differences in the frequency of plea bargaining to total number of hearings as indicated by this particular measure before and after the Young Offenders Act.

When type of plea entered was considered in relationship to type of legal representation the data showed that in 1% (N=1433) hearings in which youth plead guilty to a lesser and included offence they were represented by a legal aid lawyer. In the other six hearings duty counsel acted for youth who entered this type of plea. No other type of counsel represented youth in hearings where such an action took place.

G. Case Outcomes

Hypothesis 14 predicted that proportionately more cases would be dismissed after the implementation of the YOA. When all hearings were considered only .4% (N=579) hearings heard under the Juvenile Delinquents Act compared to 1% (N=1433) hearings under the Young Offenders Act involved case dismissals. The difference of proportions test showed that the proportion of cases to total number of hearings dismissed was no greater after the YOA than before (Table 25).

IV. Summary

This chapter has presented data which provide an overview of the general observed differences between youth in the Edmonton court as it operated under the Juvenile Delinquents Act and youth in the Edmonton court after the implementation of the Young Offenders Act. The results for the test of the formality hypotheses were also given.

This study found that while both the number of observed youth and the hearings which they were involved in seemed to increase after the new legislation, the proportion of cases to hearings was not statistically different. Also, the percentage of males and females in the two samples did not change. Differences were however observed in the age and race characteristics of observed youth. Specifically, the jurisdiction of the court changed after the YOA. Youth aged twelve to eighteen are dealt with in the Young Offenders court whereas under the Juvenile Delinquents Act youth aged seven to sixteen appeared in the Edmonton court. These changes in jurisdiction made comparisons between individual age categories inappropriate. What was noteworthy however was that after the YOA 50% of the sample was fifteen years of age or younger while 47% were sixteen years of age or older.

When race was considered in this research Caucasian were found to constitute the majority of the sample both before and after the Young Offenders Act. Differences were observed in the proportion of Caucasians; "other" racial/ethnic groups and those would could not be classified into the pre-established race categories while no such differences were observed in the proportion of native Canadians to total number of cases.

Fourteen hypotheses intended to measure formality were tested. Results indicate that in fact the proportion of Crown prosecutors and defence counsel active in the courts after the implementation of the YOA is greater. The proportion of hearings set over for plea, adjourned to get social reports and cases dismissed after the implementation of the YOA increased. No greater proportion of Native Canadians than Caucasians had legal representation.

Nine of the formality hypotheses did not find empirical support. In particular, there were no more delays in case processing after the YOA than before. When all cases were considered youth with prior records did not experience more delays in case processing after the YOA than those with no prior record. However, when all observed cases were divided into those which entered the study prior to July 24th and those which entered after July 24th a statistically significant different amount of time was required to process a case. Cases which entered the courts after the 24th took less time to move from first to last hearing. The control variable, legal representation, did not affect case processing while the control variable, prior record, did. Youth with no prior record moved more quickly through the process than those with a prior record. Interestingly, youth with a prior record were no more likely to have defence counsel after the implementation of the YOA than youth with no prior record.

There were no more hearings set over for trial or plea in relationship to total hearings after the YOA than before. Proportionately there were also no more hearings where bail/detention was discussed or jurisdiction was ascertained. The incidence of technical motions (*voir dires* and requests by the Crown prosecutor for two days notice to prepare for bail hearing, arguments made on the basis of the new Canadian Charter of Rights and Freedoms and the Constitution) to total number of hearings observed were no greater in the Young Offenders court than they were in the juvenile court. Finally, the proportion of plea bargaining to total number of hearings after the Young Offenders Act was not greater.

The results presented in this chapter will be discussed in Chapter 6. Chapter 5 will present the results for the lack of uniformity hypotheses.

CHAPTER 5: TEST OF LACK OF UNIFORMITY HYPOTHESES

I. Introduction

The second group of hypotheses tested in this study suggest that there will be a lack of uniformity in how judges respond to the new legislation. The only comparisons made were among the eleven judges who presided over the Young Offenders court during the ten week observation period. No data was available for Edmonton judges working under the Juvenile Delinquents Act so it was impossible to compare judges before and after the implementation of the YOA. As noted in Chapter 3 it may be that there were always differences among judges in the juvenile court. In fact, even though this was never formally analyzed, during the observation phase of the "National Study On The Functioning Of The Juvenile Court" part of the lore among the courtroom observers was that there were differences among judges in how they conducted hearings.

This chapter will present the findings for the lack of uniformity hypotheses. Each major hypothesis and sub-hypothesis will be followed by a discussion of the range of judicial behavior found and the results for the analysis of variance (ANOVA) tests. An interpretation of each table will be given.

II. Some General Observations

Judges presided over all types of hearings in the Young Offenders court. As Table 26 shows some judges sat through many hearings while others sat through very few. This differential is partially explained by the fact that at the beginning of the study one judge would sit in the first appearance court for an entire week while the rest of the judges were rotated in other Youth and Family courts. This changed before the halfway point in the window period. Judges would then sit for only one day at a time in the first appearance court.

TABLE 26
FREQUENCY OF HEARINGS PRESIDED OVER BY JUDGE

IDENTIFICATION NUMBER	FREQUENCY OF HEARINGS	PERCENT
001	244	17.0
002	294	20.5
003	100	7.0
004	184	12.8
005	144	10.0
006	189	13.2
007	30	2.1
008	197	13.7
009	2	.1
010	29	2.0
011	8	.6
998	12	.8
TOTAL	1433	100

III. Advising Youth Of Their Right To Counsel

Under Section 11 of the Young Offenders Act a youth's right to counsel is secured. Specifically, Section 11(1) establishes that

> A young person has the right to retain counsel without delay, and to exercise that right personally, at any stage of proceedings against the young person and prior to and during any consideration of whether, instead of commencing or continuing judicial proceedings against the young person under

> this Act, to use alternative measures to deal with the young person.
>
> (Young Offenders Act R.S.C. 1985, c.Y-1)

Judges are to advise a youth of this right when they are not represented by counsel at a bail hearing, a hearing held with relation to Section 16 of the YOA, at trial or at a review of disposition hearing. A reasonable amount of time is to be given for a youth to obtain counsel.

Hypothesis 15 predicted that judges will advise youth of their right to counsel at different rates after the implementation of the Young Offenders Act. As a group, the Edmonton judges did not explain right to counsel to youth in the majority of hearings over which they presided[1]. Specifically, judge 005 explained the right 24% of the time, judge 006 22%, judge 003 21% and judge 008 20%. The remaining judges, judge 001 explained the right to counsel in 19% of hearings, judge 007 sixteen percent, judge 004 15%, judge 002 14% and judge 010 4%. Judge 011 on the other hand explained in 38% of all hearings but this is a function of the small number of hearings presided over.

When all hearings in the study are considered, Table 27 shows an F score of 2.721 for the main effect of the judge id variable (JUDID) which indicates that there were statistically significant ($p<.01$) variations by judge in explaining right to counsel to youth in the Edmonton court. This finding supports the hypothesis as stated.

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[1] The reader is advised that all hearings where no juvenile was present for the judge to explain right to counsel were excluded from analysis.

TABLE 27
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE (N=1433)

Source of Variation	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	146.88	10	14.689	2.721	.003
JUDID	146.888	10	14.689	2.721	.003
Explained	146.888	10	14.689	2.721	.003
Residual	7613.001	1410	5.399		
Total	7759.889	1420	5.465		

Whether or not a youth had legal representation was believed to affect whether a judge explained right to counsel. Specifically, judges are not required under the YOA to explain this right if counsel is present. If a young offender had counsel then judges would explain in fewer hearings than if a youth had no representation. It was also thought that type of counsel would make a difference to whether an explanation was offered. If a youth was simply represented by duty counsel then a judge might be more inclined to explain that if a youth had retained counsel. Specifically, duty counsel appears in court with any youth who is not represented and wishes to be . Given that the duty counsel acts for all youth and is not assigned to handle entire cases from first hearing through to disposition it is suggested that judges may explain right to counsel when a duty counsel acts as they may believe that youth need to understand that the YOA "right to counsel" provision suggests something more than simply having duty counsel represent you at a given hearing. For this reason, the initial results were further scrutinized by controlling for youth who were represented by legal counsel (REP) and by type of representation (REPTYPE)[2]. This was done by introducing each of these variables separately into a two way analysis of variance equation. The introduction of these control variables necessitated the inclusion of an interaction term in the analysis[3]. Additionally, conditional one way analyses of variance were run using JUDID as the independent variable and the categories of REP and REPTYPE as conditioning factors[4].

A. Controlling For Legal Representation

It was hypothesized that when a youth had legal representation this would affect whether individual judges explained the right to counsel. Table 28 shows the results of the two way ANOVA using the dichotomous legal representation control variable. As can be seen from this table the main effects JUDID (F=2.951, p<.01) and REP (F=54.134, p<.001) were statistically significant indicating the direct effects of both of these variables on the dependent variable. The interaction term, F=1.816, however was not significant.

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[2] Prior record, legal representation and type of legal representation are the three control variables used in testing the lack of uniformity hypotheses.

[3] Kachigan (1982) has pointed out that there are two key reasons for identifying the existence of interaction effects among experimental or predictor variables. The first is for strictly statistical purposes. The validity of most multi-factor analytical models rests on an assumption of no interaction effects among the experimental or predictor variables... [and second] simply looking at overall effects, without taking into account the levels of other variables, may lead us to make generalizations from our data that are misleading or drastically incorrect".

[4] "Select if" statements were used in these analyses of REP and REPTYPE to test if judicial variation occurred within categories.

TABLE 28
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE BY LEGAL REPRESENTATION (N=1433)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	415.464	11	37.769	7.397	.000
JUDID	150.686	10	15.069	2.951	.001
REP	276.396	1	276.396	54.134	.000
TWO WAY INTERACTIONS	74.173	8	9.272	1.816	.070
EXPLAINED	489.637	19	25.770	5.047	.000
RESIDUAL	7107.232	1392	5.106		
TOTAL	7596.869	1411	5.384		

As expected, when youth were represented by counsel judges, who by the terms of YOA 11(3) have no duty to explain right to counsel when youth is represented judges only did explain in very few hearings. In fact, two judges never explained, one explained in 8% of hearings, three judges 6% of the time and three others 5% of the time. Again, judge 011 explained right to counsel 37% of the time but this judge only presided over eight hearings which met the necessary conditions.

Table 29 presents the conditional analyses for those youth represented by counsel. As the table indicates significant variation occurred among judges (F=4.233, p<.001) in explaining the right to counsel for youth in this category. However as can be seen in Table 30 this was not the case for youth without representation. Judicial variation in explaining this legal right for these youth was not statistically significant (F=1.161), thus supporting the hypothesis.

TABLE 29
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE FOR YOUTH WITH REPRESENTATION (N=1031)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	120.673	10	12.067	4.233	.000
JUDID	120.673	10	12.067	4.233	.000
Explained	120.673	10	12.067	4.233	.000
Residual	2899.011	1017	2.851		
Total	3019.684	1027	2.940		

When youth appeared in court without representation judges explained right to counsel much more frequently than when youth were represented- a finding consistent with the terms of Section 11(3). Judge 010 for example explained to youth in 33% of relevant hearings while judges 001 and 002 did so 57 and 52% of the time, respectively. Judges 005 and 007 offered an explanation in 60% of relevant hearings, judge 008 in 61% and judge 004 63%. Judge 003 advised youth of their right 65% of the time and judge 006 69%. Judge 011 presided over no hearings where youth were not represented by counsel.

TABLE 30
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE FOR YOUTH WITHOUT REPRESENTATION (N=385)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	104.185	8	13.023	1.161	.322
JUDID	104.185	8	13.023	1.161	.322
Explained	104.185	8	13.023	1.161	.322
Residual	4208.221	375	11.222		
Total	4312.406	383	11.260		

B. Controlling For Type Of Representation

Since having legal representation was found to affect whether judges explained right to legal counsel it seemed important to also consider the type of legal representation which a youth had to determine if that also influenced the relationship of interest. A two way analysis of variance was first run to test the direct effects of JUDID and REPTYPE as well as any interaction that might occur between the two. The results are summarized below in Table 31.

TABLE 31
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE BY TYPE OF LEGAL REPRESENTATION (N=1433)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	205.438	14	14.674	6.125	.000
JUDID	102.156	10	10.216	4.264	.000
REPTYPE	88.567	4	22.142	9.241	.000
TWO WAY INTER.	94.365	31	3.044	1.270	.149
EXPLAINED	299.803	45	6.662	2.781	.000
RESIDUAL	2192.288	915	2.396		
TOTAL	2492.092	960	2.596		

While the main effects of JUDID (F=4.264, p<.001) and RETYPE (F=9.241, p< .001) were statistically significant the interaction term (F=1.270) was not.

Five types of legal representatives were active in the Edmonton post-YOA court. Specifically, duty counsel, retained representative, legal aid, other counsel and agents for retained representatives. Each of these types of counsel were introduced as conditional categories in the one way analysis of variance. The only type of defence lawyer that proved to affect the relationship between judge identity and explaining right to counsel was legal aid[5]. Two judges seemed to account for the observed variation. In particular, judge 002 explained right to counsel in hearings where legal aid lawyers were active 1% of the time while judge 003 did so in 4% of relevant hearings. Eight judges never offered an explanation under these circumstances while the other remaining judge did not preside over any relevant hearings. These findings hardly seem to suggest great variation among the judges when explaining right to counsel however when any of the other four types of counsel were active Edmonton judges never explained the provision for legal representation to any youth who appeared before them. The information must therefore be viewed in this context.

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[5] When control variables were found to have no effect at all on the relationship of interest the tables are not reported in the chapter but are relegated to Appendix D.

Table 32 presents the results of the one way analysis of variance demonstrating significant variation by judge (F=2.990, P<.01) in explaining the right to counsel for youth represented by legal aid[6].

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[6] It is important to note that the lack of variation observed for other types of counsel may well be a methodological artifact. This was also thought to be true for other conditional one way of analysis of variance employed in this research. Specifically, to test the effect of different control variables a "select if" procedure was used as part of the analysis. This resulted in only a small number of hearings being included for some of the analyses. It is argued that there may not have been enough hearings included in many of these conditional analyses to show any real variance among the judges.

TABLE 32

RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE FOR YOUTH REPRESENTED BY LEGAL AID (N=488)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	113.806	10	11.381	2.990	001
JUDID	113.806	10	11.381	2.990	001
Explained	113.806	10	11.381	2.990	001
Residual	1811.619	476	3.806		
Total	1925.425	486	3.962		

IV. Advising Youth Of Their Eligibility For Legal Aid

Section 11(4)(a) of the Young Offenders Act establishes that a judge can refer a youth to a legal aid or assistance program in order to have counsel appointed for that youth if a youth is unable to obtain a lawyer on his/her own. Hypothesis 16 predicted that judges will advise youth of their eligibility for legal aid at different rates after the implementation of the YOA. In fact, most judges in the Edmonton court did explain a youth's eligibility for legal aid. Specifically, judge 004 explained 9% of the time, judge 002 and 005 10%, judge 001 11%, judge 008 12% of the time. Judge 003 explained eligibility for legal aid in 18% of hearings and judge 006 did so 25% of the time. Only two judges never explained eligibility for legal aid while another did not preside over any hearings in which there were circumstances under which to do so.

Table 33
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE (N=1433)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	230.692	10	23.069	1.907	.040
JUDID	230.692	10	23.069	1.907	.040
Explained	230.692	10	23.069	1.907	.040
Residual	17052.480	1410	12.094		
Total	17283.172	1420	12.171		

Table 33 shows the results of the one way analysis of variance testing hypothesis 16. This table indicates that indeed there are significant variations among judges (F=1.907, p,.05) in explaining eligibility for legal aid thus supporting the general hypothesis. This relationship is examined more closely using prior record and legal representation as control variables

A. Controlling For Prior Record

It was hypothesized that there would be variation among judges in explaining legal aid when controlling for prior record. Specifically, youth with a prior record might be assumed by some judges to have experience with the court system and not require an explanation of the legal aid system whereas other judges under the requirements of the new law might be inclined to explain the availability of such services to these youth. Likewise, some judges might explain legal aid to all youth with no prior record because they have never been through the court process before and to follow the mandate of the new legislation. What the present research showed was that when youth who had a prior record were in court only five judges explained eligibility for legal aid. Judge 006 explained most often (29%) followed by judge 005 (25%), judge 001 (13%) and judge 002 (11%). As with previous analyses, judge 011 did explain eligibility for legal aid to young offenders but there was only one relevant hearing on which to evaluate this judge's behavior. It is not an informative finding. The remaining five judges never offered an explanation. When youth with no prior finding of delinquency appeared the situation changed somewhat. Only three judges never explained while the remaining seven did. Again judge 006 explained eligibility for legal aid most often followed by judge 003 at 21%, judge 008 16%, judge 004 14%, judge 001 11%, judge 002 10% and judge 005 9% of the time. Judge 011 explained in 3/7 hearings while judge 009 did not preside over any relevant hearings.

To test this sub-hypothesis a two way analysis of variance was run to examine the effect of prior record (PRFIN).

TABLE 34
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE BY PRIOR RECORD (N=1433)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	230.753	11	20.978	1.733	
	.061				
JUDID	230.366	10	23.037	1.903	.041
PRFIN	.061	1	.062	.005	.943
TWO WAY INTER	106.398	9	11.822	.977	.457
EXPLAINED	337.151	20	16.858	1.393	.115
RESIDUAL	16946.021	1400	12.104		
TOTAL	17283.172	1420	12.171		

As Table 34 demonstrates only the main effect of JUDID (F=1.903, p<.05) shows significant variation. Neither the main effect of prior record (F=.005) nor the interaction term (F=.977) were statistically significant. Predictably the conditional analyses yielded no significant variation among judges in explaining eligibility for legal aid.

B. Controlling For Legal Representation

The control variable, legal representation (REP.), was introduced to determine what impact this had on whether judges explained a youth's eligibility to obtain legal aid. Interestingly, Table 35 demonstrates that the inclusion of legal representation as a control variable renders the main effect of JUDID (F=1.738) non-significant.

As can be seen from this table only the main effect of REP shows significant variation (F=262.987, p<.001).

TABLE 35
RESULTS OF ANOVA FOR EXPLAINING LEGAL AID BY JUDGE BY LEGAL REPRESENTATION (N=1433)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	2914.749	11	264.977	25.991	.000
JUDID	177.155	10	17.716	1.738	.068
REP	2681.193	1	2681.193	262.987	.000
TWO WAY INTER	56.709	8	7.089	.695	.696
EXPLAINED	2971.458	19	156.393	15.340	.000
RESIDUAL	14191.655	1392	10.195		
TOTAL	17163.113	1411	12.164		

ANOVA tests were run to determine whether having legal representation or not having legal representation affected whether judges explained a youth's eligibility for legal aid. Oddly, the conditional analyses yielded no significant variation among judges for either category of REP. Consistent with the YOA provisions which outline when a judge must explain eligibility for legal aid, youth appeared in the Edmonton court with legal representation none of the judges observed explained a youth's eligibility. Interestingly when young offenders appeared without any sort of representation three judges explained eligibility for legal aid. In each instance the judge only explained it in one hearing. Specifically, judge 006 did so 6% of the time, judge 001 5% and judge 002 9%. Judge 011 had no applicable cases in this situation.

C. Controlling For Type Of Legal Representation

Since having legal representation or not having legal representation did not affect whether judges explained a youth's eligibility for legal aid, type of representation was not thought to influence the relationship of interest. As the tables in Appendix D show the conditional analyses did not result in any significant variation among judges in explaining legal aid. For all five types of counsel observed in this study there was not a single instance where an Edmonton judge explained a youth's eligibility for legal aid.

V. Explaining Criminal Charges

Although not specifically mandated by the Young Offenders Act, hypothesis seventeen predicted that judges will explain criminal charges to youth at different rates after the implementation of the YOA. The measure of this hypothesis was item #113 of the observation instrument. This question would only be answered if an arraignment occurred at a hearing (item #119=1 or yes). To properly test this hypothesis it was necessary to separate out all those hearings where an arraignment occurred from those where it did not and then examine the general relationship between judge and explanation of criminal charge. This was done through a partitioning process using the "select if" feature in SPSS-X. One way analysis of variance was then used on the partitioned cases to test the hypothesis.

TABLE 36

RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGE BY JUDGE

(N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	1.693	9	.188	1.647	.098
JUDID	1.693	9	.188	1.647	.098
Explained	1.693	9	.188	1.647	.098
Residual	88.849	778	.114		
Total	90.542	787	.115		

The results in Table 36 suggest that hypothesis 17 was not supported in this research. No significant variation by judges (F=1.647) in explaining criminal charges was evident. In fact five of the judges never asked the youth whether they understood the charges they were facing while the remaining six inquired in only a small percentage of hearings. Specifically, judge 004 asked 10% of the time, judges 001, 002 and 008 6% and judge 006 in 3% of all arraignment hearings.

Despite the lack of support for the stated hypothesis the control variables of prior record, legal representation and type of representation were still introduced to test whether differences among judges in explaining criminal charges might hold true under a particular specified condition.

A. Controlling For Prior Record

It was hypothesized that there would be variation among judges in explaining criminal charges when prior record was controlled for. In particular when a youth had a prior record there would be variation among judges in explaining criminal charges to youth. A two way analysis of variance test was first employed to test the effects of this variable.

TABLE 37
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGE BY JUDGE BY PRIOR RECORD (N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	3.213	10	.321	2.859	.002
JUDID	1.397	9	.155	1.381	.193
PRFIN	1.520	1	1.520	13.526	.000
TWO WAY INTERACTIONS	.887	8	.111	.986	.446
EXPLAINED	4.100	18	.228	2.026	.007
RESIDUAL	86.442	769	.112		
TOTAL	90.542	787	.115		

While prior record (F=13.256, p<.001) proved to be significantly related to explaining criminal charges neither JUDID (F=1.381) nor the interaction term (F=.986) were significant.

When youth who had previously been found delinquent were before the court only four judges explained the charges before the court to them. In particular, judge 004 explained in 25% of arraignment hearings, judge 008 in 17%, judge 002 in 6% and judge 001 4%. When youth who had no prior finding were considered, four judges never explained while the rest of the judges did so very infrequently. Judges 001 and 002 explained charges to youth in 6% of hearings over which they presided, judge 006 and 008 3% and judge 003 2% of the time. Judge 004 explained criminal charges in 14% of all relevant hearings. Judge 011 did not have any cases in either instance.

Conditional ANOVA's using prior record were run. First, all hearings where an arraignment occurred and where youth had a prior record were considered in a one way analysis of variance. Second, all hearings where an arraignment occurred and where youth had no prior record were analyzed. In both cases no support was found for the hypothesis.

B. Controlling For Legal Representation

Whether a youth is represented by counsel or not represented it was hypothesized that there would be differences among judges in explaining criminal charges. The results of the two way analysis of variance, presented in Table 38, again show that while the control variable legal representation was significantly related to explaining the criminal charge (F=19.662, p<.001) neither JUDID (F=1.509) nor the interaction between judge and legal representation (F=1.486) was statistically significant.

TABLE 38
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE BY LEGAL REPRESENTATION (N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	3.886	10	.389	3.484	.000
JUDID	1.515	9	.168	1.509	.140
LEGAL REPRESENT	2.193	1	2.193	19.662	.000
TWO WAY INTER	1.326	8	.166	1.486	.158
EXPLAINED	5.212	18	.290	2.596	.000
RESIDUAL	85.327	765	.112		
TOTAL	90.540	783	.116		

Conditional analyses were run across the two categories of legal representation. The only condition under which a difference among judges in explaining criminal charges was observed was when there was no legal counsel present. As Table 39 below shows, JUDID was statistically significant for this category (F=2.072, p<.05) which partially supports the hypothesis. Specifically, the post-YOA data show that when youth were not represented in court four judges never explained criminal charges. Judge 004 however explained in 21% of hearings, judge 008 in 14%, judge 002 in 8% and judges 001 and 006 in 5%. Neither judge 009 or 011 presided over any hearings under these conditions. When legal counsel was present no such differences were observed. Six judges still explained criminal charges when youth appeared with legal representation but they did so in relatively few hearings. Judge 001 and 002 explained in 6% of hearings, judge 002 in 5%, judges 003 and 008 in 2% and judge 006 in 1%. The other five judges never explained criminal charges when youth were in court with counsel.

TABLE 39
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE FOR YOUTH NOT REPRESENTED BY LEGAL COUNSEL (N=210)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	1.459	8	.182	2.072	.040
JUDID	1.459	8	.182	2.072	.040
Explained	1.459	8	.182	2.072	.040
Residual	17.603	200	.088		
Total	19.062	208	.092		

C. Controlling For Type Of Counsel

The type of counsel representing a youth was thought to be a factor in determining differences among judges in explaining criminal charges. When duty counsel represented youth only judge 002 explained criminal charges. This was done in 9% of hearings. If an accused had privately retained counsel, judges 001 and 006 offered an explanation of the charges but in only one hearing in which this situation arose. Four judges did explain when a legal aid lawyer represented a youth. Specifically, judge 004 did so 12 % of the time, judge 001 10%, judge 003 7% and judge 002 4%. The other seven judges never explained when a legal aid lawyer was acting for an accused youth. Finally, when an agent for a retained representative was present in court or some "other" type of counsel was active not a single judge explained the criminal charges.

The results of the ANOVA for explaining criminal charges by judge by type of legal representation are summarized in Table 40. As had been the pattern with the previous analyses for explaining criminal charges only the control variable, type of representation, was statistically significant (F=15.743, p<.001)

TABLE 40
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE BY TYPE OF LEGAL REPRESENTATION (N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	7.757	13	.597	5.705	.000
JUDID	1.721	9	.191	1.828	.061
REP TYPE	6.586	4	1.646	15.743	.000
TWO WAY INTER	3.372	25	.135	1.290	.159
EXPLAINED	11.129	38	.293	2.800	.000
RESIDUAL	52.187	499	.105		
TOTAL	63.316	537	.118		

Interestingly, the only type of counsel which produced significant differences among judges in explaining criminal charges for the conditional analyses was duty counsel. As indicated in Table 41 the one way analysis of variance resulted in JUDID showing significant variation (F=3.017, p<.01).

TABLE 41
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE
FOR YOUTH REPRESENTED BY DUTY COUNSEL (N=209)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	1.426	9	.158	3.017	.002
JUDID	1.426	9	.158	3.017	.002
Explained	1.426	9	.158	3.017	.002
Residual	10.401	198	.053		
Total	11.827	207	.057		

VI. Understanding Charges Before The Court

According to Section 12(a) when a youth is not represented by counsel "the youth court shall, before accepting a plea, satisfy itself that the young person understands the charge before him" (YOA S.C. 1980-1983, c-110). Hypothesis 18 stated that judges will ask youth whether or not they understand a charge at different rates after the implementation of the Young Offenders Act. As was the case with hypothesis 17 it was first necessary to isolate all those hearings where an arraignment took place from those where one did not.

TABLE 42
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE (N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	1.889	9	.210	1.232	.272
JUDID	1.889	9	.210	1.232	.272
Explained	1.889	9	.210	1.232	.272
Residual	132.552	778	.170		
Total	134.440	787	.171		

The results for the test of the general hypothesis, presented in Table 42, indicates that statistically significant differences were not found (F= 1.232) among judges when inquiring whether or not a charge is understood. Eight of the eleven Edmonton judges inquired whether youth understood the charge(s) they were facing in court. They did so at very similar rates. Judge 002 asked youth in 15% of hearings, judge 003 and 008 in 12%, judge 006 11%, judge 004 9%, judge 007 8%, judge 005 6% and judge 001 5%. Neither judges 009, 010 or 011 asked youth before the court if they understood the charge(s) they were facing.

Despite the lack of support for the hypothesis the three control variables of prior record, legal representation and type of legal representation were again introduced. All two way analysis of variance tests failed to demonstrate any significant variation among judges. Further, even when conditional analyses were run no statistically significant differences were found among judges when inquiring whether or not a charge was understood. Thus, the data does not support the hypothesis as stated.

It is interesting to note that when youth with prior records were in court seven of ten judges included in the analysis asked if they understood the charges they were facing. Judge 004 and 002 asked most often at 31 and 29% respectively. Judge 008 inquired in 25% of the hearings, judge 003 17%, judge 001 16%, judge 005 12% and judge 006 6%. When youth with no prior record were present these results changed. Three judges never asked but the remaining nine did. Judge 007 inquired of youth at 14% of relevant hearings over which s/he presided while judge 006 asked 12% of the time, judge 003 11%, judge 002 10%, judge 008 8%, judge 001 7%, judge 005 5% and finally judge 004 4%.

When youth were represented by counsel all but four judges asked young offenders if they understood the charges before the court. What is noteworthy is the small percentage of hearings in which judges inquired. Judge 002 asked in 7% of the hearings, judge 004 and 008 6%; judge 001 and 005 5%, judge 003 4% and judge 006 3%. Predictably, when youth were not represented judges asked much more often. Only judge 010 never made such an inquiry and judge 011 had no applicable cases. Judge 002 asked 35% of the time, judge 006 29% and judges 003,007 and 008 23%. Finally, judge 001 wanted to know if youth understood charges 18% of the time and judge 004 17%. Judge 005 inquired in 8% of the relevant hearings.

Only when duty counsel, a retained representative or a legal aid lawyer acted did judges ask youth whether they understood the charges. When duty counsel was present three judges never asked whether charges were understood. Judges 002 and 004 asked 15% of the time, judge 008 10%, judge 005 8%, judges 001 and 003 6% and finally judge 006 3%.

Most Edmonton judges, 6/10 never asked about a youth's understanding when a retained lawyer was active. The remaining four (001, 002, 004, 006) only did so in one of all arraignment hearings over which they presided. The eleventh judge had no applicable cases. A similar situation arose with legal aid. In this instance, 7/11 judges never made inquiries about youth's of the charges understanding while the other four did so in one hearing each (001,002,003,008). An inquiry about whether youth understood criminal charges never occurred when an agent for a retained representative or "other" counsel was active.

VII. Understanding The Difference Between Guilty And Not Guilty

The provisions of YOA 12(3)(b) establish that "where a young person is not represented in youth court by counsel, the youth court shall, before accepting a plea, explain to the young person that he may plead guilty or not guilty to the charge" (YOA, S.C. 1980-1983, c-110). Hypothesis 19 predicted that judges would inquire whether or not a youth understands the difference between guilty and not guilty at different rates after the implementation of the YOA. As with hypotheses 17 and 18 it was first necessary to partition all those hearings where an arraignment took place from those where one did not in order to test this hypothesis.

TABLE 43

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE (N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	1.161	9	.130	1.469	.155
JUDID	1.161	9	.130	1.469	.155
Explained	1.161	9	.130	1.469	.155
Residual	68.596	778	.088		
Total	69.761	787	.089		

Table 43 shows that there are no statistically significant differences among judges (F=1.469) when inquiring whether or not a youth understands the difference between guilty and not guilty.

As with the preceding hypotheses prior record, legal representation and type of legal representation were also introduced as control variables. Neither prior record nor legal representation were found to affect the outcome of the hypothesized relationship. In spite of these findings it is interesting that when youth who had previously been found delinquent appeared in the Edmonton court only two judges (002 and 006) asked whether they understood the difference between guilty and not guilty. With the exception of judge 009, who was not included in this analysis, the rest of the judges never asked. When youth without a record were in court this changed. Six judges never asked but the remaining five did so with great frequency. Specifically, judge 001, 002 and 004 asked 4% of the time, judge 003 2% and judge 006 1%.

When youth were represented by legal counsel only four judges asked whether youth understood the difference between guilty and not guilty. Judge 002 did so in 3% of hearings, judge 001 and 003 in 2% and judge 006 in 1%. Specifically, this situation only changed somewhat when youth appeared without representation. Five judges never determined whether youth understood the difference between guilty and not guilty. Judge 004 inquired 12% of the time, judge 001 and 002 5% of the time and judge 006 3%. Judges 009 and 011 had no relevant cases.

What did make a difference however was type of legal representation. While the introduction of this control variable into a two way analysis of variance (See Table 44) resulted in only representation type showing significant variation (F=19.560, p<.001), the conditional analyses produced significant differences among judges for those youth represented by duty counsel. In fact, only one judge (002) asked youth about their understanding of the difference between guilty and not guilty when duty counsel acted. This was done in 9% of hearings presided over. Judge 009 had no applicable hearings. When retained representatives appeared judge 001 inquired 7% of the time and judge 006 5%. Again, judge 009 had no applicable hearings and the remaining eight judges never did this. A similar situation arose with legal aid. The data show judge 003 asked accused youth in 7% of hearings, judge 001 in 3%. The other nine judges never did so. Further when "other" counsel acted only seven judges were included in the analysis and none inquired. This was also true when there was an agent for a retained representative in court. Of the eight judges who found themselves in this situation none asked youth if they understood the difference between guilty and not guilty.

TABLE 44

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE AND TYPE OF LEGAL REPRESENTATION (N=791)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
MAIN EFFECTS	7.881	13	.606	6.824	.000
JUDID	1.460	9	.162	1.826	.061
REP TYPE	6.951	4	1.738	19.560	.000
TWO WAY INTER	3.024	25	.121	1.361	.115
EXPLAINED	10.905	38	.287	3.230	.000
RESIDUAL	44.331	499	.089		
TOTAL	55.236	537	.103		

As can be seen from Table 45 JUDID (F=3.017, p<.01) varied significantly in this category suggesting that when youth were represented by duty counsel statistically significant differences were observed among judges in explaining the difference between guilty and not guilty. In fact, only one judge (002) asked youth about their understanding of the difference between guilty and not guilty when duty counsel acted. This was done in 9% of hearings presided over. Judge 009 had no applicable hearings. For all other types of counsel-retained representative, legal aid, agent for retained representative and other counsel no such differences were observed. When retained representatives appeared judge 001 inquired 7% of the time and judge 006 5%. Again, judge 009 had no applicable hearings and the remaining eight judges never did this.

A similar situation arose with legal aid. The data show judge 003 asked accused youth in 7% of hearings, judge 001 in 3%. The other nine judges never did so. Further when "other" counsel acted only seven judges were included in the analysis and none inquired. This was also true when there was an agent for a retained representative in court. Of the eight judges who found themselves in this situation none asked youth if they understood the difference between guilty and not guilty.

TABLE 45
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY & NOT GUILTY BY JUDGE FOR YOUTH REPRESENTED BY DUTY COUNSEL (N=209)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	1.426	9	.158	3.017	.002
JUDID	1.426	9	.158	3.017	.002
EXPLAINED	1.426	9	.158	3.017	.002
RESIDUAL	10.401	198	.053		
TOTAL	11.827	207	.057		

VIII. Reasons For Dispositions

The final lack of uniformity hypothesis which was tested in this study was that judges would give reasons for dispositions at different rates after the implementation of the Young Offenders Act Under the new legislation Section 20(6) sets forth that where a youth court makes a disposition under this section [ie disposition], it shall state its reasons therefor in the record of the case"(YOA S.C. 1980-1983, c-110). Only those hearings where a disposition was given were included in the one way analysis of variance.

TABLE 46

RESULTS OF ANOVA FOR GIVING REASONS FOR DISPOSITION BY JUDGE (N=430)

SOURCE OF VARIATION	SUM OF SQUARES	DF	MEAN SQUARES	F	SIG OF F
Main Effects	11.907	8	1.488	1.455	.172
JUDID	11.907	8	1.488	1.455	.172
EXPLAINED	11.907	8	1.488	1.455	.172
RESIDUAL	429.706	420	1.023		
TOTAL	441.613	428	1.032		

Table 46 shows that this last hypothesis was not supported by the data. Specifically, JUDID (F=1.455) did not vary significantly in this analysis suggesting that there are no statistically significant differences among judges in giving reasons for disposition. What was discovered in this study is that of the nine judges who presided over disposition hearings they all gave reasons for the decisions they reached. In specific terms, judge 001 did so in 44% of hearings, judge 008 50%, judge 007 53%, judge 002 56%, judge 006 57%, judge 005 58%, judge 004 59% and judges 003 and 010 63% of the time.

IX. Summary

This chapter presented the results for the six lack of uniformity hypotheses tested in this study. The findings were mixed. Specifically, variations were found among judges in explaining right to counsel to youth. When youth were represented by counsel in general and legal aid lawyers in particular this relationship was affected. Variations were also found among judges in explaining eligibility for legal aid but none of the three control variables used in this research seemed to affect this finding.

Hypothesis 17, 18 and 19 were tested by partitioning those hearings where an arraignment occurred. Examination of the primary relationships as specified by the these three hypotheses showed no variation among judges in the cases of interest. Specifically, no variation was observed among judges in explaining criminal charges, when inquiring whether youth understood charges and when asking whether youth understood the differences between guilty and not guilty. Of special interest here was that this lack of variation did not hold up when different conditions were introduced. For example, when youth had no legal representation and when duty counsel was active variation was observed among judges in explaining criminal charges. Further, when duty counsel represented youth there was variation among judges when inquiring whether or not a youth understood the difference between guilty and not guilty.

No differences were found to exist among judges in giving reasons for disposition so hypothesis twenty was not supported. These findings along with the results for the formality hypotheses presented in the previous chapter will be discussed in Chapter 6.

CHAPTER 6: DISCUSSION AND CONCLUSION

I. Introduction

At the root of this thesis are the assumptions that the implementation of the Young Offenders Act will lead to a more formal model of court functioning and that judges will respond to the new legislation in their own individual ways. The analysis of data presented in Chapters 4 and 5 yield several interesting results. First, based on these results, it appears as though the Edmonton Court has become more formal. Specifically, the proportion of Crown prosecutors and defence lawyers active in the court after the implementation of the new law is greater than before. The proportion of hearings set over for plea, adjourned to get social reports and cases dismissed to total number of hearings after the implementation of the YOA, increased. No greater proportion of Native Canadian youths than Caucasians had legal representation in court and the proportion of youths with a prior record who had a lawyer to the proportion of youths without a prior record and had a lawyer was not different. However, contrary to expectations many things in the Edmonton court have not changed in the face of new legislation. There are no significant differences in the number of delays in case processing. This was true even when prior record was considered. No difference in the proportion of hearings set over for trial to total number of hearings was detected. Proportionately, bail/detention was not discussed at any more hearings nor was jurisdiction ascertained more often. Finally, the incidence of technical motions and plea bargaining to total number of hearings was not greater after the YOA. Second, significant variations were observed among judges for some aspects of court proceedings. Specifically, there were variations among judges when it came to explaining right to counsel and eligibility for legal aid. However in general, no variations were observed among judges when it came to explaining criminal charges, inquiring whether youths understood the criminal charges they were facing or inquiring whether youths understood the difference between guilty and not guilty. Interestingly, various conditional analyses often resulted in variations among judges under specific circumstances. Finally, there were no variations observed among judges in giving reasons for disposition.

This chapter will be devoted to the interpretation and discussion of results. Explanations for why some elements of the courtroom proceedings have changed while others have remained the same and why judges varied along the dimensions that they did and not others will be offered. What the research findings mean for the future of the Edmonton court and what conclusions can be drawn as a result are addressed. Directions for future research are discussed.

II. The Demographic Characteristics Of Youth In The Post-YOA Court

While the proportion of youth to number of hearings in the sample did not increase significantly the number of youth observed before and after the implementation of the Young Offenders Act rose from 250 to 517 in the Edmonton court. This is believed to be a function of the time when the data for the comparative study was collected. Specifically, under the terms of the new legislation each province was allowed a one year period from the time of the Act's proclamation in 1984 to implement the mandated change in jurisdiction. Alberta was one of the provinces which chose to exercise this option. As a result, there were no real changes observed in the number of young persons who were dealt with by the court in 1984. However, in 1985 when the maximum age became uniform the number of young persons who appeared before the court increased dramatically (Morrison, 1988)[1]. According to Mason (1988) the greatest demands were placed on the Alberta system in April 1985 when sixteen and seventeen year olds were brought under the jurisdiction of the court. This would account for the observed increase in the number of youth in the Edmonton court.

The sixteen and seventeen year olds in the post-YOA court made up 47% of the sample while 50% were fifteen years or younger. This finding is consistent with the criminology literature which suggests that delinquency peaks before age eighteen (Hirschi, 1968; Elliott and Voss, 1974; LeBlanc, 1983). A second possible explanation for why sixteen and seventeen year olds made up such a large proportion of the sample is the newness of the Act. The police department may have been charging a greater number of sixteen and seventeen year olds in order to be seen to comply with the new YOA or it may be that because this group of youth was previously dealt with in the adult court system they became more visible to the police who handle young offenders than they were in the past.

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[1] It is interesting to note that in 1986 an increase in the number of youths was also observed but that these changes were not as dramatic as those observed in 1985.

The fact that males continued to make up the majority of youth in the sample comes as no surprise. Traditionally, males have outnumbered their female counterparts in the Canadian juvenile court (Morrison, 1988). What is interesting however is the racial composition of the post-YOA sample. There were fewer Caucasians and more people in the "other" racial/ethnic group category. This may suggest a great visibility of Negro, East Asian, South Asian and others in the Edmonton court system or it may reflect a general change in the demographic composition of the city of Edmonton itself. This finding deserves further investigation but is beyond the parameters of the present research.

III. The Increased Presence Of Crown Prosecutors And Defense Lawyers

Both defence lawyers and prosecutors were active in the Edmonton court prior to the implementation of the Young Offenders Act. What has changed is the type of prosecutor and the number of youth who are represented by defence lawyers. Non-uniformed police officers and probation officers no longer act as prosecutors. Rather representatives from the Attorney-General's Department have assumed this role and become highly visible. These findings indicate a shift in organizational responsibility in the juvenile court (Schneider & Schram, 1983). This interpretation is supported by changes which occurred in Alberta's approach to young offenders before the new Act was proclaimed. Specifically, in March 1983, some two years after the initial observation period for the baseline data, the Alberta government began to prepare for the proclamation of the then forthcoming Young Offenders Act. A committee of the Alberta cabinet transferred responsibility for young offenders from the Department of Social Services and Community Health to the Solicitor-General's Department. These two departments along with the Attorney-General worked to implement changes. As a result of this shift in organizational responsibility Crown prosecutors were given official status in the court and non-uniformed police officers and probation officers had this status taken away from them.

The review of the literature (Lemert, 1967) suggested that the introduction of prosecutors conditions the introduction of lawyers into the juvenile court process. While this appears to be the case in the Edmonton Youth Court, the increased presence of defence counsel is also a manifest function of a procedural change mandated by the new law itself. Specifically, under the Young Offenders Act all youth are entitled to legal representation at every stage of the process.

This right is secured for all youth independent of their parents. In addition, a duty counsel is available at all court hearings to assist and advise any youth who wishes to have someone speak on their behalf. Further, legal aid has also been accorded a full role in the Edmonton Youth court. A judge can order that the Legal Aid Society appoint counsel in the event that a youth is denied representation. In light of these mandated changes it is hardly surprising that more defence lawyers were found to be active in the youth court process than in the pre-YOA court. This finding is corroborated by Gabor, Greene and McCormick (1985) who report that the Alberta judges they interviewed said the increase in youth with counsel had been great in the post-YOA court.

The increased presence of Crown prosecutors and defence counsel suggests that there is a move to greater formality in the Edmonton youth court. Both actor groups are closely aligned with the law and by definition work to ensure that there is due process of law for young offenders. By giving Crown prosecutors and lawyers official status in the post-YOA court probation officers, who were primarily concerned with social welfare matters, were displaced and their role became ambiguous. This had two main effects. First, while "every effort was made to coordinate responses [among various actor groups] there were times when one part was not clear about its mandate and this led to conflict in the system" (Mason, 1988) or at the very least a formula for structured conflict. This was certainly the case for probation officers. Second, social welfare concerns have become juxtaposed with criminal considerations and the result is often to the detriment of the young offender. For example, in one case in this study[2] there was an extensive discussion between the judge and defence counsel about what the youth wanted to do and about what placement options were available. At the end of this dialogue the Crown prosecutor pointed out that "notwithstanding all the problems we are dealing with this is a criminal matter" and asked the judge to make the youth's lengthy record and the protection of the public his primary considerations in passing sentencing". In another case a youth's defence counsel appeared in court without the accused to enter a not guilty plea. After the trial date was set the youth's mother advised the court that she did not know where her daughter lived and that the youth was out of control. The judge advised the mother to seek the help of the Child Welfare authorities but the mother said that she had gone to them as well as the Crown prosecutor and the police and no one would pick up her daughter. The judge said the only thing he could do to help was to suggest that she renew her efforts with child welfare. In response the mother commented that it seemed that no one had jurisdiction in this matter. This focus on legal issues to the harm of social issues appears to be an unintended consequence of the Young Offenders Act (Hackler, 1987).

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[2] Item #849 of the observation instrument was a place where courtroom observers could note any unusual characteristics about a courtroom hearing. Any unique aspects of the hearing were also recorded here. At the end of the study all comments were pulled from the observation instruments and typed onto separate sheets of paper so that they might be organized by case number and by topic. They provide useful illustrations of particular situations which arose in the post-YOA court.

Besides finding that there were both more defence counsel and Crown prosecutors after the implementation of the new legislation, no differences were found between Native Canadian and white Canadian youth when it came to representation. Further, youth with a prior record were no more likely than youth without a prior record to have legal counsel. What these two findings seem to suggest is that the intent of the "right to counsel" is being followed in the Edmonton YOA court. If legal counsel is secured for each and every youth independent of his/her parents then under ideal circumstances having counsel should not be related to either prior record or race. It is also suggested that these findings are a function of the availability and accessibility of legal aid to all youth who appear in court. As previously noted, anyone who cannot afford to retain their own counsel can arrange to have a lawyer through legal aid. If they are denied on their own application then a judge can order that counsel be appointed under Section 11(4)(a) of the Young Offenders Act. Obtaining counsel is not dependent on offence history or race.

IV. Case Processing After The YOA

According to the literature reviewed one of the unintended consequences of giving lawyers official status in the juvenile court is that more time is required to process a case from first to last hearing (Carrington & Moyer, 1988; Lemert, 1970; Lefstein, Stapleton & Teitelbaum, 1969; Stapelton, Vaughn & Teitelbaum, 1972). The Alberta judges interviewed by Gabor, Greene and McCormick (1985) shared this view. Specifically, three quarters said that it was their impression that there had been an increase in the average time it takes to process a case under the YOA. In fact, based on the present investigation there were no more delays in case processing after the Young Offenders Act than there were before. Having legal representation or not having legal representation did not affect the time required to move a case from first to last hearing after the YOA

It is argued that these findings are directly related to the change which the judges of the Edmonton court made in July of 1985 to cope with what might be described as growing court congestion. Specifically, youth would make a first court appearance and wish to retain counsel before entering a plea. A case would then be adjourned for this purpose. As Table 14 of Chapter 4 shows, the majority of youth obtained counsel through legal aid. No other type of counsel was more active in post-YOA court hearings. Carrington and Moyer (1988:6) have pointed out that, "most writers favor the view that legal representation, especially judicare [lawyers paid by state legal aid assistance plans but working in private practice] or privately retained lawyers, increased the length of the process and, hence, court workload". Based on the court hearings observed in this study a youth was often unable to have a lawyer appointed by the next adjournment date or would have been denied counsel by legal aid. When counsel was denied a judge would then have to order counsel be appointed and adjourn the case. As a result, many youth made several appearances in court before facing their actual charges. Cases did not move quickly.

On July 24th the judge presiding in the first appearance court announced that once a youth indicated that s/he wanted counsel they would be able to pick up a signed form at the Clerk of Courts desk ordering that counsel be appointed under Section 11 (4)(a) of the Young Offenders Act. This form was to be taken to the first Legal Aid appointment to arrange for counsel. This proved to be a significant innovation and an unanticipated consequence of implementing the new legislation. As the present findings indicate it took less time to process a case after July 24, 1985 than it did before. It is the author's view that because this innovation occurred almost precisely at the midway point of the initial comparative observation period any increase in the amount of time required to process a case from first to last hearing which might have been attributed to the Young Offenders Act was, on balance, eliminated.

Finding that youth with a prior record who appeared before July 24 took longer to go from first to last appearance is consistent with the findings for the Edmonton court when it operated under the Juvenile Delinquents Act (Silverman, 1985). It is also supports expectations about who is most likely to spend the greatest amount of time in the process. What is surprising is that after the 24th of

July youth with no prior record took longer to go from first to last hearing than those with a record It is suggested that youth without a prior record have less experience with the system than their prior record counterparts and may well wait until later in the process to request counsel. This means they have more adjournments in their cases than youth with a prior record and this would account for the longer time they spent in the process.

When all cases in the study were considered the findings showed that youth with prior recor[illegible] did not experience any more delays in case processing than youth without prior records after the YOA. As was the case with the control variable, legal counsel, it is suggested that the lack of observed differences between these two groups is a function of the Edmonton court's adaptation to its congestion problem as described above. Specifically, before July 24th youth with a record took longer to go from first to last hearing than those without one. After July 24th youth without a record took longer than youth with a prior record to move through the system. When both groups were combined this eliminated any previously observed differences.

The proclamation of the Young Offenders Act has put the adversarial process and formal proceedings in place. One would expect that there would be more emphasis on confrontation as evidenced by trials in this new system. Discovering that no more hearings were set over for trial in this study than in the baseline research suggests that there may be a growing focus on negotiation rather than confrontation in the new court and that the court has been successful in minimizing the impact of formal proceedings.

As a formal procedure trials are often seen as a source of increased workload within the courts as well as an explanation for delays in case processing (Carrington & Moyer, 1988). Since no more delays were observed in case processing after the Young Offenders Act than before it is not surprising that no more hearings were set over for trial in the post-YOA than before. As trials generally take longer to complete, it is often the case that as courts become more adversarial bargaining increases and formality, as measured by formal procedures, decreases because it only results in a heavier workload for all key actors (Horowitz, 1977). This may be happening in Edmonton and explain why no more hearings are set over for trial now than in the past.

This finding may also be a function of having more lawyers representing youth. While it is usually assumed that lawyers by their very presence put adversarial tactics in place, they may in fact place more emphasis on negotiation than confrontation (Blumberg, 1967). Peter Nasmith, an Ontario judge, has summed up this situation succinctly. He believes that 90% of all youth who appear in court plead guilty on the advice of their counsel to avoid a trial. Horowitz (1977) also shares this view suggesting that there is a desire among lawyers to avoid overcrowded dockets and thus a desire to encourage youth to plead guilty and avoid a trial. This raises an important question. If lawyers advise their clients to plead guilty are they actually fitting in with the structure and philosophy of the new Act? Specifically, are they acting more as paternalistic family/child-welfare oriented lawyers instead of criminal lawyers? What is the proper role of counsel in this court?

V. Hearings In The Youth Court

Stapelton et al. (1972) found that in the more formal courts there were separate plea hearings. The measure used to assess this in the present study showed that indeed there were more hearings set over for plea in the post-YOA court than the pre-YOA court indicating more formal proceedings in the Edmonton court. It is argued that this finding is directly related to the presence of lawyers in this particular court and an increased emphasis on protecting a youth's rights. Specifically, now that their place is firmly established and they have an active role in court proceedings they will be inclined to request an adjournment to get the particulars about the specific charges facing their clients. They will be interested in assessing the situation before entering a plea. This finding also points to a fundamental change which the implementation of the Young Offenders Act has brought about in court proceedings. Under the old Juvenile Delinquents Act court proceedings could be as informal as the circumstances allowed. Under the new law formality, intended to indicate to the accused the gravity of the situation and the due process of law intended to convey fairness,are emphasized. Taking time to discover the particulars of a case before entering a plea would seem to be consistent with this due process of law orientation.

Bail hearings, like separate plea hearings, were believed to be an indicator of a more formal court (Stapelton et al, 1972). Although the new legislation established specific bail procedures, there were no more hearings after the YOA where bail/detention was discussed. Failure to find any increase in this type of hearing is believed to be a function of the measure used to test this hypothesis. According to Silverman (1985: 108) whenever bail was discussed in the pre-YOA court it was done on an informal basis. Observers may have had difficulty recording bail/detention information in the Edmonton juvenile court. One has to wonder how much a comparison of the frequencies from the National Study for the bail/detention item with those from the post-YOA court tell us about the bail/detention issue. Perhaps no more hearings where bail/detention was discussed were observed after the Young Offenders Act because of the way observers recorded bail/detention information before the new legislation. A better measure of this particular dimension of courtroom proceedings is required to more fully test the stated hypothesis.

The change in the court's jurisdiction mandated by the YOA was believed to be an impetus for ascertaining jurisdiction more often in court hearings. In fact this was not the case. One explanation for this may lie in the new legislation itself. Specifically, the proof of age required by law is considerably broader under the

YOA than it was under the JDA. The only requirement a judge must satisfy in court concerning jurisdiction is that there is no evidence available to suggest that a youth is outside the established age parameters. This is a marked change from the Juvenile Delinquents Act where the only person who could really ascertain jurisdiction was a juvenile's mother. Even though the age of youth who are dealt with by the court has changed judges may feel that given the more liberal conditions which the YOA has established concerning this matter, it is not any more necessary to address jurisdiction in the Youth Court than it was in the past.

While jurisdiction may not be ascertained any more after the YOA than before and this on the surface suggests that the Edmonton court is not any more formal now than in the past it is important to note that a change in jurisdiction has occurred. Under the old legislation all youth over age seven and under sixteen could be dealt with by the court. At present, only youth aged twelve to seventeen can be brought before the Youth Court. Further, under the federal YOA the court deals with criminal code and federal statute violations while the provincial YOA deals with provincial statute violations thereby eliminating status offences. It may be that narrowing the scope of the court's jurisdiction in these ways will ultimately lead to increased formalization - an unanticipated consequence (Schur,1973:20). It is therefore suggested that the full impact of changing the court's jurisdiction may not as yet have been felt.

VI. Social Reports

Stapelton, Vaughn and Teitelbaum (1972) suggested that fewer social reports would be requested in a more formal court. However, more social reports were predicted in the post-YOA court because of the importance which the Young Offenders Act has placed on them. Pre-disposition reports are now available at the request of the judge and they must contain specific information and be made available to all participants. Under the Juvenile Delinquents Act no such provisions existed. At that time reports were optional and contents were not specified. Finding that more social reports were indeed requested in the comparative study suggests that the Edmonton court is in fact adopting this provision of the new legislation.

VII. Motions

Although Stapleton, Vaughn and Teitelbaum (1972) found that more technical motions were filed in the formal versus the traditional court there were no more technical motions after the Young Offenders Act than before. The present finding is however consistent with the views which Alberta judges expressed to Gabor, Greene and McCormick (1985). Specifically, half of those interviewed said that they felt there had been no significant increase in the number of legal issues which came up in court.

It is argued that the observed lack of *voir dires* is directly related to the few trials which take place in the post-YOA Edmonton court. Specifically, a *voir dire* is a trial within a trial to determine the admissibility of a particular statement. As for why there are no more requests by the Crown prosecutor for two days notice to prepare for a bail hearing, arguments made on the basis of the new Canadian Charter of Rights and Freedoms and the Constitution, it is suggested that many of these motions were made outside the courtroom hearings being observed for this study and that the motions were more often written than oral and could not be captured through observation. One of the hearings observed after the Young Offenders Act demonstrates this point. On September 5, 1985 a hearing was scheduled for a discussion of a youth's original bail order. The Crown prosecutor advised the court that they had brought a motion of certiorari[3] on the judge who had first made the order and that they were trying to get the original order quashed. Since this matter was being decided by the Court of Queen's Bench, the presiding judge in the YOA court ruled that this matter could not be dealt with until a ruling was made by the superior court. This example shows that in this particular case the technical motion was made outside of the Youth Court and that it was written not oral. There was no way that the observation instrument used in this study could capture such a motion. Perhaps an additional measure of this variable would more accurately determine the extent of technical motions in the YOA court.

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[3] Certiorari is a writ of a superior court to obtain the records of a lower court in deciding a particular matter.

VIII. Plea Bargaining

While David Horowitz (1977) suggested that one of the unanticipated consequences of introducing prosecutors and defence counsel into the American juvenile court process was that it served to condition the plea bargaining process the findings of the present study do not indicate that there was any more plea bargaining after the Young Offenders Act than before. Failure to find support for this hypothesis is believed to be related to how plea bargaining was measured. Examining the incidence of guilty pleas to lesser and included offences is only one indicator of plea bargaining. As was the case with the National Study data "it was very difficult to learn the actual incidence of plea bargaining [from the courtroom hearing] since it was a practice which occurred in private" (Bala & Corrado, 1985: 97). It may be that this was also the case in the post-YOA data and some measure other than the one used is necessary to determine the full extent of plea bargaining.

Although it was difficult to find empirical evidence of more plea bargaining after the implementation of the new legislation it is suggested that these negotiations are favored in the youth court. For example, in one of the cases included in the study the prosecutor advised the court that this matter was proving to be very problematic. The presiding judge commented that this would be a good time for plea bargaining to occur. It is further suggested that while plea bargaining may not be widely practised or firmly in place the new legislation may have conditioned the process. This is illustrated by one youth's case which had been set down for trial. The prosecution called ten witnesses while the defence called none. At the end of the trial the judge found the youth guilty of all charges and in passing sentence made the following comments,

> ...the Crown eliminated a few charges in this case. While its true the Crown can get very technical this defence lawyer has sat and waited for the Crown to make a mistake. A real disservice has been done here by going to trial. The actual facts may not have come out. When a person pleads guilty this is a step towards rehabilitation. For this reason I am all for plea bargaining

It is interesting to note that when plea bargaining did occur youth were represented-a finding consistent with the literature (Bala and Corrado, 1985; Horowitz, 1977). In the post-YOA court youth had either a duty counsel or legal aid lawyer act on their behalf. The strong presence of these two types of lawyers in plea negotiations is believed to be related to their high level of activity in the youth court. Specifically, when all hearings were considered (N=1433) duty counsel were active in 269 of them and legal aid lawyers in 488. It is suggested that because these legal aid lawyers and duty counsel act in the majority of hearings they are anxious to resolve as many cases as possible without a trial (Stapleton, Vaughn & Teitelbaum, 1972). Plea bargaining achieves this end.

IX. Case Outcomes

More cases were dismissed after the new legislation than before. According to Stapleton, Vaughn and Teitelbaum (1972) more dismissals occur in formal than in traditional courts. By this measure the post-YOA court is more formal than the pre-YOA court but one is left to wonder what impact this has on young offenders. If cases are dismissed because a complainant or witness does not appear youth may be learning that based on such a technicality they can break the law with impunity. It is important to note however that this was not a widespread practice at either point in time. Under the Juvenile Delinquents Act dismissals occurred in only 2 out of 579 hearings compared to 17 out of 1433 hearings under the Young Offenders Act. For this reason there must be caution in drawing conclusions based on this particular finding.

X. Another Possible Explanation For The Formality Findings

The results of the formality hypotheses demand an examination of Section 68(1) of the YOA. It provides that

> "every youth court for a province may, at any time, with the concurrence of a majority of the judges thereof present at a meeting held for the purpose and subject to the approval of the Lieutenant Governor in Council establish rules of court not inconsistent with this or any regulations made pursuant to section 67 [allows federal

Cabinet to make regulations] regulating proceedings within the jurisdiction of the youth court (Young Offenders Act S.C. 1980-1983,c-110). If any rules are made under this section they are to be published in the provincial gazette. In Alberta this publication is entitled, The Alberta Gazette.

It may be the case that the Alberta Youth Courts, of which Edmonton is a part, developed rules in 1985 for doing things which have allowed the court to remain informal even in the face of the new legislation which suggests greater formality. These rules were thought to provide a possible alternative explanation for the formality findings.

An examination of the Alberta Gazette for 1985 showed that indeed the Alberta courts did develop three procedural rules. Specifically, they identified who was to be designated as a provincial director, youth workers and places of temporary detention, secure and open custody. These rules do not affect the courtroom proceedings of interest here. They do not explain anything more about why we failed to find increased formality.

XI. Uniformity Or Lack Of Uniformity Among Edmonton Judges?

The proclamation of the Young Offenders Act has produced jurisdictional[4], structural[5] and procedural changes in the Edmonton court. While judges have been affected by each of these, procedural changes have had the greatest impact of their role in the courtroom. Under the new law judges must advise youth of their right to counsel, explain eligibility for legal aid, explain criminal charges, inquire whether or not youth understand the charges they are facing, the difference between guilty and not guilty and give reasons for their dispositions. With the exception of explain criminal charges, the Young Offenders legislation establishes that the duty for the judge to explain these various elements of the courtroom proceeding is triggered when the youth is not represented by counsel. If judges were to follow the Young Offenders Act precisely no variations would be observed among them along these dimensions. In the view of this author judges are best described as the "interpreters of law" (Lemert, 1967) and as such they may choose to make changes mandated by the new legislation or make individual adaptations to the new system. The results from this study indicate that judges do vary along some dimensions but not others and certain conditions resulted in observed differences among judges.

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[4] The court now has jurisdiction over youths aged 12 to 17 whereas in the past youths aged 7 to 16 were handled by the court. Further, the types of charges dealt with by the Youth court are different from those of the juvenile court.

One of the fundamental rights guaranteed to all young offenders under the YOA is the right to legal counsel at all stages of court proceedings. It is secured independent of parents. As

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[5] Lawyers and prosecutors now have official status in the court while other groups such as probation officers have had their status taken away from them. Social welfare concerns are separate from criminal ones. Right to counsel has been secured and there are more formal proceedings for finding someone guilty. All of these changes are types of structural impact (Horowitz, 1977).

predicted Edmonton judges did advise youth of their right to counsel at different rates. It is suggested that this variability reflects judges' response to the new legislation and demonstrates that although they are supposed to explain this right to all youth at every stage of the proceedings some do not feel obligated to do so. They regard this as a matter of individual discretion. This interpretation is consistent with how right to counsel was dealt with under the Juvenile Delinquents Act. Specifically, whether or not a youth had counsel was dependent on the judge presiding. Some judges might tell youth of this right while others might not.

Many cases observed in this study show that some judges try to ensure that youth are apprised of their right to counsel while others focus less attention on this. For example, at one sentencing hearing the judge asked the youth if he wanted a lawyer explaining that under the Young Offenders Act a youth can request a lawyer even at this stage in the proceedings. The youth said he did want a lawyer but had not had a chance to speak to one. In fact he only spoke to Legal Aid about the matter yesterday because he had just decided he wanted to counsel. In this particular case the judge felt that given these developments the case should not proceed and the matter was adjourned. In another sentencing hearing the judge realized that the youth had not been advised of his right to counsel before a plea was entered. This particular judge apologized to the youth for failing to explain this right. In a third case, the presiding judge asked the accused if he would like to have counsel. When the youth said he did not, the judge pointed out to the duty counsel sitting in the audience that the youth had now waived his right and that he did not want to hear that the youth's rights had not been protected.

While some judges seem very concerned about making sure a youth knows about right to counsel and that others know s/he has advised the youth some still consider the wishes of parents when making this right known. For example, one youth making a first appearance in the Edmonton court was told by the judge that he had the right to legal counsel. When the accused said he wanted counsel his mother advised the court that he would not be retaining counsel. The judge advised the mother that the youth was entitled to counsel independent of her wishes. In another instance a different judge took a different view. Although an inquiry was made into whether or not the youth wanted counsel the judge also asked the parent if they wanted the accused to have counsel. It is suggested that asking parents for their input on this matter reflects some judges tie to the procedures of the past where parents played an important in the court process and were included in matters relating to the juvenile offender whenever possible. The Young Offenders Act has shifted attention away from the child to the child's behavior. The emphasis is on the due process of law and the youth's right to participate in decisions. Parents have a diminished role in this process. The fact that some judges still seek a parents input in the face of these changes indicates an unwillingness to move away from the procedures of the past.

Variation was observed among judges in explaining right to counsel when youth were represented by legal counsel. This result is not surprising. If a youth appears in court with counsel many judges probably assume that a young person's right to counsel has been explained. Other judges may feel that just because a youth has counsel it does not mean they understand their fundamental right to counsel at all stage of the proceedings. Some judges may therefore proceed to explain this in spite of the presence of a lawyer.

Interestingly, the only type of counsel which significantly affected the primary relationship of explaining right to counsel when represented was legal aid. This finding is believed to be related to the role which legal aid counsel has assumed in the Youth Court. This group of lawyers is active in more hearings than any other type of counsel. Their increased presence is a direct result of the new legislation. Again, while some judges may assume that if a youth appears with a legal aid lawyer right to counsel has already been explained others may feel that because lawyers are being appointed to youth through legal aid as a matter of course they may still need to explain to youth the basic right to counsel secured by the Young Offenders Act.

There were variations among judges in explaining eligibility for legal aid. This suggests that despite the mandate of the new legislation some judges may feel obligated to advise youth of this while others may not. Two hearings observed in this study demonstrate these very different positions. In one case, a judge immediately explained to the accused that he had the right to counsel and specifically that he was eligible for legal aid. If legal aid refused to provide this youth with a defence lawyer then one was to be appointed for him. By contrast, the Crown prosecutor in another case asked the presiding judge to explain right to counsel to the accused youth before the court as well as eligibility for legal aid. The judge declined to do so. The prosecutor then asked the judge to make an order that in the event that legal aid refused counsel, a lawyer could be appointed. The judge refused to do this unless the youth was made a ward of the Crown.

Variations were not found to exist among judges in explaining criminal charges or when inquiring whether youth understood the charges before the court and the differences between guilty and not guilty. It is argued that this finding underscores the importance which judges place on understanding in the youth court. When Gabor, Greene and McCormick (1985) interviewed judges of the Alberta youth court they found that judges were very much concerned that youth understand the court process thus reinforcing the pedagogical function of the court and the rehabilitative approach. It is the author's contention that these three findings demonstrate that the change in legislation has not altered this fundamental view.

When youth appeared without legal representation variations were found among judges in explaining criminal charges. This finding is thought to be related to what the proper role of counsel in the youth court should be. While there has been widespread disagreement among actor groups on this subject lawyers themselves seem to be able to agree that one of their main functions should be ensure that a youth understands what happens in court (Bala & Clarke, 1981). It is suggested that some judges in the study share this view . As a result they believe it is a lawyer who explains charges to a youth. Without counsel the accused may be seen to not understand the charges they are facing and the judge offers an explanation. Still other judges may not feel that the new Young Offenders Act makes it incumbent upon them personally to explain criminal charges to any youth who appear before them.

It was interesting to find that when duty counsel represented youth variations were found among judges both in explaining criminal charges and inquiring whether or not youth understand the difference between guilty and not guilty. Duty counsel has an active role in the YOA court and is available to all youth in the post-YOA court who are not represented. It may be that the explanation for the present findings lies in the very role which duty counsel performs. In particular, some judges may believe that because of this heavy workload duty counsel does not have enough time to explain the criminal charges a youth is facing or to ensure that youth understand the difference between guilty and not guilty. Other judges may believe that it is the role of counsel of any type to explain criminal charges to youth and ensure that they understand the difference between guilty and not guilty. The onus is not on judges to explain or to make sure something is understood. In fact, according to the legislation, this is in fact the case. When youth are represented the judge is not obliged to explain these things.

Few of the conditional analyses for the preceding three hypotheses resulted in any observed variations among judges. This may well reflect a methodological artifact. In particular, to test these hypotheses only those hearings which involved an arraignment were included. Then, to test the effect of different control variables a "select if" procedure was used. Only a small number of hearings were finally included in some of these analyses. It may be that too few hearings are the reason that no real variance was observed among the Edmonton judges.

Failure to find any variation among judges in giving reasons for dispositions does not suggest that all judges give reasons or all judges do not give reasons for dispositions. It only says that they do not do so at different rates. Again, this finding is thought to reflect more of a methodological artifact than anything else. Only those hearings where a disposition was given were included in the analysis. This resulted in a small N for the test of this hypothesis.

XII. Implications Of The Findings

The move away from a juvenile justice system based on the doctrine of *parens patriae* to one which operates according to a due process model suggested that there would be increased formality in the operation of the court. As predicted by Silverman (1985) the conclusion reached here is the present study has demonstrated that the Edmonton court appears to be conforming to the terms of the new legislation but has found ways to remain informal. Formality is observed in specific proceedings. The new law is a framework. The structure is general enough to allow implementation to take many forms (Gabor, Greene & McCormick, 1985). The findings would also seem to suggest that many of the changes mandated by the new Act were already underway before its proclamation and that while the Young Offenders Act outlines the tenets of the new law the Edmonton court has developed its own structures and methods of dealing with youth (Hackler, 1984:59).

The implementation of the new legislation was intended to produce very specific changes in the day to day functioning of the court. This has happened but as with the Gault decision in the United States, the Young Offenders Act has had many unanticipated consequences, some positive and some negative. The most striking has been the displacement of probation officers by lawyers and prosecutors and the precedence which legal issues have taken over social welfare concerns. This has created a dualism in the new court (Emerson, 1968). While social welfare issues are no longer the central consideration in youth cases their exclusion may mean that the best interests of the young person are not served in the process. Securing rights, emphasizing responsibility and accountability while ignoring the special needs of the young offender may well mean that the best things of the old Juvenile Delinquents Act will be lost with no new gains (Gabor, Greene & McCormick,1985). The court needs to reconcile these two issues instead of emphasizing one, to the exclusion of the other.

Judges were predicted to make individual adaptations to the Young Offenders Act. While there was variation among individual judges along several of the dimensions considered there was greater uniformity among judges than originally predicted. What this finding suggests is that judges may be making fewer individual adaptations and are following the terms of the new legislation. It is difficult to assess however whether this uniformity is the result of new legislation or the result of a real change in behavior. There is no baseline data available from which to draw such conclusions. It may be that many of the judges did the things which the new legislation mandates before it ever came into force. The proclamation of the Act may have simply accelerated the change process at a structural level and had little impact on judges' courtroom behavior.

Judges remain the "interpreters" of the new law in the Edmonton court. While the YOA provides general guidelines many sections are the subject of ongoing debate and discussion. This was certainly seen to be the case during the data collection period in this study. In one trial a judge was forced to make a decision concerning the admissibility of a certificate of analysis . When the Crown prosecutor asked to make the certificate an exhibit defence counsel argued under a particular section of the Young Offenders Act that this was biased-- the youth had not been given adequate opportunity to obtain counsel before taking the breathalyzer test. Under Section 11(2) the police have to advise all youth of their right counsel and help a youth call a lawyer. In addition the lawyer for the accused also argued that inasmuch as the framers of the YOA had the Constitution in mind there had been a breach of the Canadian Charter of Rights and Freedoms in this case. After considerable debate, the presiding judge admitted the certificate as an exhibit but commented that because of the controversy surrounding this matter he would provide both counsel with written reasons and welcome an appeal. He concluded by saying "the Youth Court needs direction" in these matters.

It is important to recognize that it is not only in trial situations where judges have been forced to act as interpreters of the new legislation. Challenges arise in all types of hearings. For example, at one bail hearing a mother advised the court that she would be unable to handle her daughters if they were released into her custody. To deal with these exceptional circumstances the presiding judge wanted to employ what he described as a unique section of the Young Offenders Act- Section 7(4)[6]. The Crown prosecutor and judge discussed this matter at length with the judge commenting that he would "really like someone to interpret what this section means". At the end of the hearing the Crown advised the court that their office would be taking this decision to the Court of Queen's Bench on a *certiorari* application.

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[6] Provides for placement with a "responsible person".

The successful implementation of a new piece of legislation like the Young Offenders Act is dependent on having particular sections interpreted- something which is often achieved through the appeal of judges' decisions. It is also dependent upon ongoing discussion between the various levels of government which are responsible for its creation. Failure to do so may well result in less than effective implementation (Lemert, 1967). The Canadian government has not only recognized that implementation is disruptive to the functioning of the court but also that there is a need for constant consultation about matters surrounding the Young Offenders Act. In response " a structure was put in place when the act was implemented whereby the federal and provincial ministers responsible for juvenile justice and their officials, meet on a regular basis to discuss implementation programs and policy matters" (Morrison, 1988: 20).

The proclamation of the Young Offenders Act ended over two decades of debate and discussion and marked a turning point in Canadian juvenile justice. As Corrado (1983: 20) has noted "some argue that we are in the second revolution in juvenile justice; some wonder whether the system will survive while still others are concerned that reforms which are based on theoretical and political extremes will only make things worse". The new legislation represents the move away from a child welfare system and the move toward a more legalistic system. The emphasis is on the responsibility and accountability of young persons for their actions and society's right to protection from these actions. Legal rights are safeguarded. The findings of this study would seem to suggest that the changes which occurred in the Edmonton court as a result of implementation of the Young Offenders Act were not as dramatic as originally predicted. In fact what has occurred is best described as less of a revolution and more of a change in the spirit of juvenile justice (Horowitz, 1977). The YOA has served to accelerate the change and reform process in the Edmonton juvenile court already underway before the proclamation of the new Act.

A failure to find radical differences between the court as it operated under the Juvenile Delinquents Act and then under the Young Offenders Act should not lead to the conclusion that no reforms have occurred. As Casper and Brereton (1984) have reminded us, if we take the theory of criminal justice change seriously, we should recognize that even small changes mean that reform has occurred within the court. Courts, as institutions are relatively resistant to new ideas and ways of doing things. As a result the small changes observed in the course of this research are viewed as the first real step toward significant behavioral change. Specifically, the increased presence of Crown prosecutors and defence counsel in the court, setting more hearings over for plea and to get social reports and dismissing more cases may well be the first indicators of the kinds of changes which may occur over time in response to the YOA. Change is a process and law change such as that which the Young Offenders Act has brought about represents an entire package of changes for the court. It is not likely that the full impact of this legislation will be felt in the first year of operation.

XIII. Directions For Future Research

The present study involved systematic observation of all first court appearances in the Edmonton Youth Court during a ten week period in the summer of 1985. Cases not disposed of during this initial time frame were tracked through to completion. Using a structured observation instrument information was recorded about each courtroom hearing. The data collected represented how the court operated after the implementation of the Young Offenders Act. To assess what impact the new legislation had on the day to day operation of the court these findings were then compared to baseline data which was collected while the Edmonton court still operated under the Juvenile Delinquents Act.

The comparative study was conducted one year after the implementation of the new legislation. This was thought to be a sufficient amount of time to ensure that what was observed was real change in courtroom proceedings and less of a reaction to the change in legislation. As the present research has pointed out however one of the major changes which the Young Offenders Act effected was not implemented until 1985. Specifically, the province of Alberta took advantage of the YOA provision which allowed for the legislation to be implemented in phases. In 1984 twelve to fifteen year olds inclusively were dealt with by the court and then one year later sixteen and seventeen year olds were brought in. While this facilitated overall implementation and made it possible to secure necessary resources and arrange programs for these various age groups it also meant that when this researcher entered the field in April 1985 there was a significant increase in the number of youth before the court. Although this was not believed to make the current findings any less valid, it is suggested that this study should be conducted again at some point in the future to fully assess whether the changes and lack of changes observed in 1985 have persisted over time. Multiple observations of the same court are believed to be the best method of ensuring that any secular trends that may have been present when the research was conducted have not been masked and that what has been observed is real change and not just an immediate reaction to the legislation (Casper & Brereton, 1984).

To more fully understand the processes of the Edmonton Youth court multiple measures of such things as technical motions, bail hearings and plea bargaining need to be developed. The single measures used in this study and the National study only tell us as a small amount about these matters. They are important indicators of courtroom functioning and attention should be directed to gaining a better understanding of them.

There needs to be more research into the role of the judge in the Youth Court. As the official interpreters of the legislation their actions in the courtroom are likely to tell us a great deal about how the legislation will be implemented over time. A more in-depth analysis of judicial behavior in the youth court needs to be conducted. One such research effort which might be pursued is an assessment of how judges are complying with the three broad principles of responsibility, accountability and protection of society as outlined in the Young Offenders Act. The development of specific measures of these principles would enable researchers to determine whether responsibility, accountability and protection of society are being pursued in the Youth Court. Further, the role of ideology (micro approach) in explaining judicial variation needs to be investigated.

Focusing exclusively on courtroom proceedings can only tell us so much about how the impact of the Young Offenders Act on the Edmonton court (Lemert, 1967). The legislation has also affected the functioning of the police department, the prosecutor's office, the Legal Aid Society, facilities for young persons and other court-related agencies. All of these groups are involved with the courts and young offenders. They are part of the organizational environment in which the court operates. We need to understand more about the nature of the changes which each of these has sustained as a result of the YOA and in turn how this impacts the day to day operations of the court. A study which adopts a macro level of theory could provide new insights.

XIV. In Closing

The move away from the Juvenile Delinquents Act to the Young Offenders Act was heralded as the start of a new era in Canadian juvenile justice. This policy was over twenty years in the making. The findings of this study about the impact of the new legislation in the Edmonton court leads to the question "Has the implementation of the new policy been a success or a failure?" In this author's opinion the YOA has been a success. Although only some changes were observed they are believed to be the first step toward significant behavioral change in this court. Change is an ongoing process and successful implementation of legislation usually involves gradual change or what Casper & Brereton (1984) call a "trickle-up effect". Courts as institutions are resistant to change, especially change from the outside. They are made up of very stable workgroups which are often able to effectively ignore new innovations or at least develop adaptive strategies which make it possible for them to formally comply with a new mandate but still be able to continue to do things as before. The fact that any change whatsoever was observed in the Edmonton Youth Court after the Young Offenders Act should lead to the conclusion that the new law has had impact.

Although the YOA is a relatively new piece of legislation it has already been subject to much discussion. Concern has arisen over such things as access to legal services, the use of treatment, evidence provisions, transfer provisions, the two-tiered custody system and how to handle non-federal offences to name a few. Some writers have suggested that when amendments are made to legislation or corrective measures taken this indicates that with time things will swing back to the way they were before (Schneider &Schram, 1983). This interpretation is not shared here. Rather it is argued that legislation, like any piece of policy, has both latent and manifest functions. It is only when it is actually implemented that we understand its full implications. The terms must be worked out through practice. What might seem perfectly acceptable in theory does not always translate into practice. Revisions are not indications that we are moving back toward the Juvenile Delinquents Act or a child-welfare model of court functioning. Rather, they represent a concerted effort to make the law work more effectively.

The true effect of the Young Offenders Act on the Edmonton court will only be known in time. Evaluation must be ongoing and we must be mindful that change is a process. There will need to be ongoing monitoring of the impact of the Act and the revisions which are adopted to make it more effective. Only then will we know if Canadian young offenders are better served by the new system of juvenile justice.

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APPENDIX A

Detach File Data Only — Keep separate from all other data

Court Date ....

Judge ....

Courtroom ....

ACTOR	ADDRESS/TELEPHONE (if determined)		IDENTIFIER
* JUVENILE	Name		☐☐☐
	Docket/File No		
	Event No	Hearing No	☐☐☐☐
MOTHER/SURROGATE	Name		☐☐☐
	Address		
		Relationship	☐
FATHER SURROGATE	Name		☐☐☐
	Address	Relationship	☐
* PROSECUTOR	Name		☐☐☐
	....		
	....		
* DEFENCE	Name		☐☐☐
	....		
	Type		
PROBATION OFFICER	Name		☐☐☐
	....		
	....		
INVESTIGATING OFFICER	Name		☐☐☐
	....		
	....		

NOTES:

HEARING OBSERVATION

1 *DATE OF HEARING ☐☐ Day ☐☐ Month ☐☐ Year

		SITE	ROLE	IDENTIFIER	EVENT NUMBER	HEARING NUMBER
2	*Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐
3	Mother/Surrogate	☐☐	2	☐☐☐	☐☐	☐☐
4	Father/Surrogate	☐☐	3	☐☐☐	☐☐	☐☐
5	*Judge	☐☐	4	☐☐☐	☐☐	☐☐
6	Crown Attorney Crown Agent	☐☐	5	☐☐☐	☐☐	☐☐
7	Defence	☐☐	6	☐☐☐	☐☐	☐☐
8	Probation Officer	☐☐	7	☐☐☐	☐☐	☐☐
9	Investigating Officer	☐☐	8	☐☐☐	☐☐	☐☐
10	Co-Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐
11	Co-Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐
12	Co-Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐
13	Co-Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐
14	Co-Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐
15	Co-Accused Juvenile	☐☐	1	☐☐☐	☐☐	☐☐

GENERAL CODES

1 = yes
2 = no
8 (in extreme left hand box) = unknown
9 (in extreme left hand box) = not applicable

TIME OF HEARING (Use 24 hour clock)

16 *Time Hearing Starts ..../.......................... Hour Minute — 16 ☐☐☐☐ ☐

17 *Time Hearing Ends ..../.......................... Hour Minute — 17 ☐☐☐☐ ☐

SET DOWNS

18. *Is the hearing temporarily interrupted (case set down)? — 18 ☐ ☐
(1) Yes (2) No

IF YES — time set down/recommenced

19/20 FIRST SET DOWN Hour .... Minute .... To Hour .... Min — 19 ☐☐☐☐ ☐ — 20 ☐☐☐☐ ☐

Reason(s) for being set down. (check all that apply)

21. ( ) Judge to read material .... 21 ☐ ☐
22 ( ) Defence to read material .... 22 ☐ ☐
23 ( ) Crown to read material .... 23 ☐ ☐
24 ( ) Obtain presence of juvenile .... 24 ☐ ☐
25 ( ) Obtain presence of parent(s) .... 25 ☐ ☐
26. ( ) Witness(es) not present .... 26 ☐ ☐
27. ( ) Other actor not present .... 27 ☐ ☐
28 Specify which actor .... 28 ☐☐ ☐
29 ( ) Defence consults with juvenile/parents .... 29 ☐ ☐
30 ( ) Court time overrun (e.g. lunch recess or set down for another case) .... 30 ☐ ☐
31 ( ) Jointly charged juvenile dealt with separately at disposition .... 31 ☐ ☐
32 ( ) Other reason specified .... 32 ☐ ☐
33 Specify reason .... 33 ☐ ☐
34 ( ) Unknown .... 34 ☐ ☐

NOTES:

			SET DOWN	
35/36	SECOND SET DOWN Hour . . Minute . . . To Hour . . . Minute	35.	☐☐☐☐	☐
		36.	☐☐☐☐	☐
	Reason(s) for being set down (check all that apply)			
37	( ) Judge to read material	37.	☐	☐
38	( ) Defence to read material	38.	☐	☐
39	( ) Crown to read material	39.	☐	☐
40	( ) Obtain presence of juvenile	40.	☐	☐
41	( ) Obtain presence of parent(s)	41.	☐	☐
42	( ) Witness(es) not present	42.	☐	☐
43	( ) Other actor not present	43.	☐	☐
44	Specify which actor	44	☐☐	☐
45	( ) Defence consults with juvenile/parents	45	☐	☐
46	( ) Court time overrun (e.g. lunch recess or setdown for another case)	46.	☐	☐
47	( ) Jointly charged juvenile dealt with separately at disposition	47.	☐	☐
48	( ) Other reason specified	48	☐	☐
49	Specify reason	49	☐	☐
50	( ) Unknown	50	☐	☐

NOTES:

PERSONS PRESENT (Check all present at start of hearing and record number of each type of person.)

		Number of Persons	
51. ( ) Accused Juvenile	51.	☐	☐
52. ( ) Other Accused Juvenile(s)	52.	☐	☐
53. ( ) Mother/Foster Mother/Female Guardian	53.	☐	☐
54. ( ) Father/Foster Father/Male Guardian	54.	☐	☐
55. ( ) Judge	55.	☐	☐
56 ( ) Court Clerk	56	☐	☐
57. ( ) Stenographer/Court Reporter	57	☐	☐
58 ( ) Sheriff/Court Attendant	58	☐	☐
59 ( ) Defence	59	☐	☐
60. ( ) Child protection worker (case worker)	60	☐	☐
61 ( ) Child protection worker (court liaison officer)	61	☐	☐
62 ( ) Probation Staff	62	☐	☐
63 ( ) Prosecutor	63	☐	☐
64 ( ) Investigating Police Officer	64	☐	☐
65. ( ) Press	65	☐	☐

OTHER PERSONS PRESENT SPECIFY:

		Number of Persons	Person Code	
66 ( ) Other	66	☐	☐☐	☐
67 ( ) Other	67	☐	☐☐	☐
68 ( ) Other	68	☐	☐☐	☐
69 ( ) Other	69	☐	☐☐	☐
70 ( ) Other	70	☐	☐☐	☐
71 ( ) Other	71	☐	☐☐	☐
72 ( ) Other	72	☐	☐☐	☐
73. ( ) Other	73	☐	☐☐	☐
74 ( ) Other	74	☐	☐☐	☐
75 ( ) Other	75	☐	☐☐	☐

NOTES.

76 Number of persons not identified at Opening .... 76 ☐☐ ☐

77 *Total Number in Courtroom at Opening
Including Observer(s) .... 77 ☐☐ ☐

78 *Are persons cleared or excluded from the courtroom? (1) Yes (2) No 78 ☐ ☐

79 If YES, what is the reason? 79 ☐ ☐

1 General order to clear the courtroom
2 All witnesses excluded
3 Some witnesses excluded
4 Specific persons excluded (not witnesses)
5 Other Specify ....

WITNESSES EXCLUDED AND/OR SPECIFIC PERSONS EXCLUDED.

80 .... 80 ☐☐ ☐

81 .... 81 ☐☐ ☐

82 *Did any person(s) arrive after the start of the hearing and actively participate in the proceeding (i.e. speak or present a document for the court record)? (1) Yes (2) No 82 ☐ ☐

IF YES, SPECIFY

83 .... 83 ☐☐ ☐

84 .... 84 ☐☐ ☐

85 .... 85 ☐☐ ☐

86 *RACE OF JUVENILE

RACE

86 ☐ ☐

1 Caucasian
2 Native Canadian (Indian Metis)
3 Negro
4 East Asian (Mainly Chinese Japanese)
5 South Asian (Mainly East Indian Pakistani)
6 Other specify ....

INTERPRETER

INTERPRETER

87 *Does the juvenile or parent(s) appear to need an interpreter? (1) Yes (2) No 87 ☐ ☐

88 *Does the juvenile or parent(s) request an interpreter? (1) Yes (2) No 88 ☐ ☐

89 *Is an interpreter present? 89 ☐ ☐

1 Yes, for juvenile
2 Yes, for parent.
3 Yes, both parents and juvenile
4 Yes, for other person(s)
5 Interpreter not present

NOTES.

90 If present, was the interpreter sworn or affirmed? 90 ☐ ☐

1 Sworn
2 Affirmed
3 Neither

91. What language is interpreted? (Specify) .... 91 ☐☐ ☐

92 * Are the proceedings conducted in (1) English (2) French 92 ☐ ☐

NOTES

PROSECUTOR

93 *Who acts as prosecutor?

01 Crown attorney
02 Crown agent (not police)
03 Private prosecutor
04 Police officer
05 Probation officer
06 School Board Representative
07 No one acting as prosecutor
10 Other: specify ....

93 ☐☐ ☐

REPRESENTATIO

REPRESENTATION FOR ACCUSED

94 *Is there someone representing the accused juvenile? (1) Yes (2) No

94 ☐ ☐

95 IF YES, representation is:
01 Duty counsel
02 Retained representative
03 Legal aid clinic representative
04 Other: specify ....

95 ☐☐ ☐

96 Does the judge explain to the juvenile that he/she has the right to consult a *lawyer? (1) Yes (2) No

96 ☐ ☐

97 If juvenile has no legal representation OR if only duty counsel is present, does judge explain that juvenile might be eligible for legal aid? (1) Yes (2) No

97 ☐ ☐

NOTES:

JURISDICTION

98 *Is jurisdiction ascertained at this hearing? (1) Yes (2) No — 98 ☐ ☐

99 IF YES, on what is jurisdiction ascertained? — 99. ☐ ☐
1. Date of birth/age.
2. Notice to parents.
3. Both date of birth/age and notice to parents are specifically ascertained.
4. Jurisdiction ascertained in general.

IF ASCERTAINED BY DATE OF BIRTH.

100. Is it by: (1) Consent (2) Evidence — 100. ☐ ☐

IF AGE PROVEN BY EVIDENCE.

101 Is it by: — 101. ☐ ☐
1. Sworn testimony
2. Unsworn testimony
3. Document
4. Both testimony and document

IF AGE PROVEN BY TESTIMONY.

Is it by: (Check as many as apply)

102. ( ) Juvenile — 102 ☐ ☐

103. ( ) Parent/Guardian — 103 ☐ ☐

104. ( ) Probation Officer — 104 ☐ ☐

105. ( ) Social Worker — 105 ☐ ☐

106. ( ) Other. Specify .... 106. ☐☐☐ ☐

107. ( ) Other, specify .... 107. ☐☐☐ ☐

IF DOCUMENT

108 Is it by — 108 ☐ ☐
1. Birth certificate
2. Baptismal certificate
3. Other. specify ....

NOTES:

ARRAIGNMENT

109 * Is an arraignment made at this hearing? (1) Yes (2) No — 109 ☐ ☐

110 IF YES who reads the information? — 110 ☐ ☐
- 1 Judge
- 2 Clerk/attendant
- 3 Nobody
- 4 Other specify ....

111 Does defence waive reading of the charge(s)? — 111. ☐ ☐
- 1 Yes for all charges
- 2 Yes for some charges
- 3 No

112 Does the information appear to be read verbatim? — 112 ☐ ☐
- 1 Yes, on all charges
- 2 Yes, on some charges
- 3 No

113 Does judge explain any of the charge(s) to the juvenile? (1) Yes (2) No — 113 ☐ ☐

114 Does judge ask juvenile if charges are understood? (1) Yes (2) No — 114 ☐ ☐

115 Does judge ask juvenile if he she understands the difference between guilty and not guilty? (1) Yes (2) No — 115 ☐ ☐

116 Is there a joint arraignment? (1) Yes (2) No — 116 ☐ ☐

IF Yes, specify on which charge(s) there is joint arraignment (more than one accused)

117 .... 117. ☐☐ ☐
118 .... 118 ☐☐ ☐
119 .... 119 ☐☐ ☐
120 .... 120 ☐☐ ☐
121 .... 121 ☐☐ ☐
122 .... 122 ☐☐ ☐
123 .... 123 ☐☐ ☐

NOTES

PLEA

124. *Is a plea made or changed at this hearing? (1) Yes (2) No 124 ☐ ☐

IF PLEA MADE OR CHANGED (SPECIFY CHARGE. CIRCLE)

	CHARGE	CODE 1. Original Plea 2. Changed Plea		CODE 1. Guilty 2. Guilty to a lesser and included offence 3. Not Guilty				
125.	....	1	2	1	2	3	125 ☐☐☐☐	☐
126.	....	1	2	1	2	3	126 ☐☐☐☐	☐
127.	....	1	2	1	2	3	127 ☐☐☐☐	☐
128	....	1	2	1	2	3	128 ☐☐☐☐	☐
129	....	1	2	1	2	3	129 ☐☐☐☐	☐
130	....	1	2	1	2	3	130 ☐☐☐☐	☐
131	....	1	2	1	2	3	131 ☐☐☐☐	☐
132	....	1	2	1	2	3	132 ☐☐☐☐	☐
133	....	1	2	1	2	3	133 ☐☐☐☐	☐
134	....	1	2	1	2	3	134 ☐☐☐☐	☐
135	....	1	2	1	2	3	135 ☐☐☐☐	☐

136 Is the plea for any charge made not using the words "guilty" or "not guilty"? (1) Yes (2) No 136 ☐ ☐

NOTES

FACTS (GUILTY PLEA ONLY)

137 *Are "facts" read in this hearing? (1) Yes on all charges (2) Yes on some charges (3) No 137 ☐ ☐

IF YES, list the charges on which the facts are read

138. .... 138 ☐☐ ☐

139 .... 139 ☐☐ ☐

140 .... 140 ☐☐ ☐

141. .... 141. ☐☐ ☐

142 .... 142 ☐☐ ☐

143 .... 143 ☐☐ ☐

144. .... 144 ☐☐ ☐

145 .... 145 ☐☐ ☐

146 Who reads facts?
1. Judge
2. Prosecutor
3 Police
4 Clerk
5. Other, Specify .... 146 ☐ ☐

147 Does defence/juvenile respond to facts? (1) Yes (2) No 147. ☐ ☐

148 IF YES, the response was 148 ☐ ☐
1. facts all correct
2 minor objections
3 major objections

IF OBJECTIONS, describe

149 .... 149 ☐☐ ☐

150 .... 150 ☐☐ ☐

151 .... 151 ☐☐ ☐

152 Does the judge after hearing the facts decide not to accept the guilty plea? (1) Yes (2) No 152 ☐ ☐

NOTES:

PRIOR RECORD

153 *Is prior record mentioned at this hearing? (1) Yes (2) No — 153. ☐ ☐

154 IF YES: When is prior record mentioned? — 154. ☐☐ ☐
- 01 During bail hearing
- 02 During transfer hearing
- 03 During trial before adjudication
- 04 After trial at disposition
- 05 After guilty plea in reading of the facts
- 06 After guilty plea at disposition
- 07 Other: specify ....

155 Was prior record mentioned during testimony by juvenile? (1) Yes (2) No — 155. ☐ ☐

157 Who introduces the mention of prior record? — 157. ☐☐ ☐
- 01 Prosecutor
- 02 Defence/Juvenile
- 03 Judge
- 04 Probation officer
- 05 Police officer
- 06 Parent(s)
- 07 Witness, if not one of the above
- 10 Other: specify ....

158 What aspect of prior record is mentioned? (Check all that apply)
- 159 ( ) No prior record — 159. ☐ ☐
- 160 ( ) Police contact(s) — 160. ☐ ☐
- 161 ( ) Contact with screening agency — 161. ☐ ☐
- 162 ( ) Court referrals, no findings of delinquency — 162. ☐ ☐
- 163 ( ) Previous finding(s) of delinquency — 163. ☐ ☐
- 164 ( ) Record introduced but contents not stated in court — 164. ☐ ☐
- 165 ( ) Other: specify .... — 165. ☐☐☐ ☐
- 166 ( ) Other, specify .... — 166. ☐☐☐ ☐
- 167 ( ) Other, specify .... — 167. ☐☐☐ ☐

168 How is prior record introduced? — 168. ☐ ☐
- 1 Oral statement
- 2 Written
- 3 Both oral and written statement

169 If written, is record formally made an exhibit? (1) Yes (2) No — 169. ☐ ☐

NOTES:

170 Is admissibility challenged? 170 ☐ ☐
1 Yes, in full
2 Yes, in part
3 No, not challenged

171 IF YES, by whom (specify) .... 171 ☐☐ ☐

172 IF YES, result? 172 ☐ ☐
1 Record admitted in full
2 Record admitted partially
3 Record not admitted

IF PARTIALLY ADMITTED, SPECIFY what is admitted

173 .... 173 ☐☐ ☐
174 .... 174 ☐☐ ☐
175 .... 175 ☐☐ ☐

176 Is there a challenge to the accuracy of the record? (1) Yes (2) No 176 ☐ ☐

177 Are there corrections made to the record? (1) Yes (2) No 177 ☐ ☐

NOTES:

SECOND PRIOR RECORD

178 * Is a second and different aspect of prior record mentioned at this hearing? (1) Yes (2) No — 178 ☐ ☐

179 IF YES. When is prior record mentioned? — 179 ☐☐ ☐
- 01 During bail hearing
- 02 During transfer hearing
- 03 During trial before adjudication
- 04 After trial at disposition
- 05 After guilty plea in reading of the facts
- 06 After guilty plea at disposition
- 07 Other: specify ....

180 Was prior record mentioned during testimony by juvenile? (1) Yes (2) No — 180 ☐ ☐

182 Who introduces the mention of prior record? — 182 ☐☐ ☐
- 01 Prosecutor
- 02 Defence Juvenile
- 03 Judge
- 04 Probation officer
- 05 Police officer
- 06 Parent(s)
- 07 Witness, if not one of the above
- 10 Other: specify ....

What aspect of prior record is mentioned? (Check all that apply)

183 ( ) No prior record — 183 ☐ ☐
184 ( ) Police contact(s) only — 184 ☐ ☐
185 ( ) Contact with screening agency — 185 ☐ ☐
186 ( ) Court referrals: no findings of delinquency — 186 ☐ ☐
187 ( ) Previous finding(s) of delinquency — 187 ☐ ☐
188 ( ) Record introduced but contents not stated in court — 188 ☐ ☐
189 ( ) Other: specify .... — 189 ☐☐☐ ☐
190 ( ) Other: specify .... — 190 ☐☐☐ ☐
191 ( ) Other: specify .... — 191 ☐☐☐ ☐

192 How is prior record introduced? — 192 ☐ ☐
- 1 Oral statement
- 2 Written
- 3 Both oral and written statement

193 If written, is record formally made an exhibit? (1) Yes (2) No — 193 ☐ ☐

NOTES

194 Is admissibility challenged? 194 ☐ ☐
  1. Yes, in full
  2. Yes, in part
  3 No, not challenged

195 IF YES, by whom (specify) .... 195 ☐☐ ☐

196 IF YES, result? 196 ☐ ☐
  1. Record admitted in full
  2 Record admitted partially
  3 Record not admitted

IF PARTIALLY ADMITTED, SPECIFY what is admitted

197 .... 197 ☐☐ ☐

198 .... 198 ☐☐ ☐

199 .... 199 ☐☐ ☐

200 Is there a challenge to the accuracy of the record? (1) Yes (2) No 200 ☐ ☐

201 Are there corrections made to the record? (1) Yes (2) No 201 ☐ ☐

NOTES:

DOCUMENTS (EXCLUDING PRIOR RECORD)

202. *Number of documents introduced .... 202. ☐☐ ☐

DOCUMENT 1

203. Document re which charge(s)? .... 203. ☐☐ ☐

204. .... 204. ☐☐ ☐

205. Type of document: 205. ☐☐ ☐

- 01. Investigating officers report
- 02. Pre-disposition report from probation officer
- 03. Post-disposition report from probation officer
- 04. Psychiatric/psychological report
- 05. Group home document
- 06. Child protection (case worker) document (excluding group home)
- 07. Training school report
- 10. Detention centre report
- 11. Analysis of substance
- 12. School attendance report
- 13. School performance report
- 14. Work performance report
- 15. Report on progress of disposition (excluding above documents)
- 16. Other document (adjudication). Specify
  ....
  ....
- 17. Other document (disposition). Specify
  ....
  ....

206. Introduced by whom? .... 206. ☐☐ ☐

207. Introduced at what stage? 207. ☐ ☐

- 1. Before adjudication
- 2. After adjudication

Prior to the hearing, the document was shown to
(Check as many as apply)

208. ( ) Judge 208. ☐ ☐

209. ( ) Prosecutor 209. ☐ ☐

210. ( ) Defence 210. ☐ ☐

211. ( ) Probation officer 211. ☐ ☐

212. ( ) Juvenile 212. ☐ ☐

213. ( ) Parent(s) 213. ☐ ☐

214. ( ) Other: specify .... 214. ☐☐☐ ☐

215. ( ) Other: specify .... 215. ☐☐☐ ☐

216. ( ) Other: specify .... 216. ☐☐☐ ☐

NOTES:

Contents of document. (Check as many as apply)

217 ( ) Evidence of offence — 217 ☐ ☐

218 ( ) Social history — 218 ☐ ☐

219 ( ) Clinical assessment — 219 ☐ ☐

220 ( ) Other: specify .... 220 ☐☐☐ ☐

221 Was author of document present in court? (1) Yes (2) No — 221 ☐ ☐

222 IF YES, was author of document questioned about its contents? (1) Yes (2) No — 222 ☐ ☐

IF YES, by whom (specify up to two persons)?

223 .... 223 ☐☐ ☐

224 .... 224 ☐☐ ☐

225 Was author in the witness box? (1) Yes (2) No — 225 ☐ ☐

226 IF YES, was the author — 226 ☐ ☐
1. Sworn
2. Affirmed
3. Neither

227 IF the author was present and not questioned, did he/she make a statement about the contents of the document? (1) Yes (2) No — 227 ☐ ☐

228 IF YES, was author in witness box? (1) Yes (2) No — 228 ☐ ☐

229 IF YES, was the author — 229 ☐ ☐
1. Sworn
2. Affirmed
3. Neither

230 If person presenting the document was not the author, was he/she questioned about the contents of the document? (1) Yes (2) No — 230 ☐ ☐

IF YES by whom (specify up to two persons)?

231 .... 231 ☐☐ ☐

232 .... 232 ☐☐ ☐

233 Was the person in the witness box? (1) Yes (2) No — 233 ☐ ☐

234 IF YES, was the person — 234 ☐ ☐
1. Sworn
2. Affirmed
3. Neither

NOTES:

DOCUMENT 2

235. Document re which charge(s)? .... 235. ☐☐ ☐

236. .... 236. ☐☐ ☐

237. Type of document: 237. ☐☐ ☐

- 01. Investigating officers report
- 02. Pre-disposition report from probation officer
- 03. Post-disposition report from probation officer
- 04. Psychiatric/psychological report
- 05. Group home document
- 06. Child protection (case worker) document (excluding group home)
- 07. Training school report
- 10. Detention centre report
- 11. Analysis of substance
- 12. School attendance report
- 13. School performance report
- 14. Work performance report
- 15. Report on progress of disposition (excluding above documents)
- 16. Other document (adjudication). Specify

....

....

- 17. Other document (disposition). Specify

....

....

238. Introduced by whom? .... 238. ☐☐ ☐

239. Introduced at what stage? 239. ☐ ☐

1. Before adjudication
2. After adjudication

Prior to the hearing, the document was shown to:
(Check as many as apply)

240. ( ) Judge 240. ☐ ☐

241. ( ) Prosecutor 241. ☐ ☐

242. ( ) Defence 242. ☐ ☐

243. ( ) Probation officer 243. ☐ ☐

244. ( ) Juvenile 244. ☐ ☐

245. ( ) Parent(s) 245. ☐ ☐

246. ( ) Other specify .... 246. ☐☐☐ ☐

247. ( ) Other specify .... 247. ☐☐☐ ☐

NOTES:

Contents of document (Check as many as apply)

248 ( ) Evidence of offence — 248 ☐ ☐

249 ( ) Social history — 249 ☐ ☐

250 ( ) Clinical assessment — 250 ☐ ☐

251 ( ) Other: specify .... 251 ☐☐☐ ☐

252 Was author of document present in court? (1) Yes (2) No — 252 ☐ ☐

253 IF YES, was author of document questioned about its contents? (1) Yes (2) No — 253 ☐ ☐

IF YES, by whom (specify up to two persons)?

254 .... 254 ☐☐ ☐

255 .... 255 ☐☐ ☐

256 Was author in the witness box? (1) Yes (2) No — 256 ☐ ☐

257 IF YES, was the author — 257 ☐ ☐
1. Sworn
2. Affirmed
3. Neither

258 IF the author was present, and not questioned, did he/she make a statement about the contents of the document? (1) Yes (2) No — 258 ☐ ☐

259 IF YES, was author in witness box? (1) Yes (2) No — 259 ☐ ☐

260 IF YES, was the author — 260 ☐ ☐
1. Sworn
2. Affirmed
3. Neither

261 If person presenting the document was not the author, was he/she questioned about the contents of the document? (1) Yes (2) No — 261 ☐ ☐

IF YES, by whom (specify up to two persons)?

262 .... 262 ☐☐ ☐

263 .... 263 ☐☐ ☐

264 Was the person in the witness box? (1) Yes (2) No — 264 ☐ ☐

265 IF YES, was the person — 265 ☐ ☐
1. Sworn
2. Affirmed
3. Neither

NOTES:

WITNESSES (Exclude post adjudication/predisposition statements
and do not complete for ascertainment of jurisdiction or statement identifying person)

266 *Number of witnesses called at this hearing .... 266 ☐☐ ☐

Witness 1

Witness re which charge(s)?

267 .... 267 ☐☐ ☐

268 .... 268 ☐☐ ☐

269 .... 269 ☐☐ ☐

270. Witness for 270 ☐ ☐
1. Prosecutor
2. Defence
3. Judge

271 Is it stated whether witness was called in previous hearing in regard to this charge? (1) Yes (2) No 271 ☐ ☐

272 Is witness in witness box? (1) Yes (2) No 272 ☐ ☐

273 IF YES is witness sworn or affirmed? 273 ☐ ☐
1 Sworn
2 Affirmed
3. Stated that witness was sworn/affirmed at previous hearing
4 Not sworn or affirmed

274. Was there a request to exclude this witness? (1) Yes (2) No 274 ☐ ☐

275 IF YES granted? (1) Yes (2) No 275 ☐ ☐

276 Type of witness (specify) .... 276 ☐☐ ☐

277 Is witness a juvenile? (1) Yes (2) No 277 ☐ ☐

Evidence (NOT FOR VOIR DIRE OR BAIL HEARING)
(check as many as apply)

278 ( ) Police Investigation Report 278 ☐ ☐

279 ( ) Eyewitness Account 279 ☐ ☐

280 ( ) Identification of Property 280. ☐ ☐

281 ( ) Character witness 281. ☐ ☐

282 ( ) Other: specify .... 282 ☐☐☐ ☐

283 ( ) Other: specify .... 283 ☐☐☐ ☐

NOTES:

EVIDENCE (VOIR DIRE ONLY) (CODE EACH ITEM)

CODE (1) WAS
(2) WAS NOT
(3) ISSUE NOT MENTIONED IN TESTIMONY

284	Juvenile was ( ) /was not ( ) advised that a statement was not obligatory	284 ☐	☐
285	Juvenile was ( ) /was not ( ) told that statements could be used against him/her	285 ☐	☐
286	Juvenile was ( ) /was not ( ) advised of the right to consult a lawyer	286 ☐	☐
287	Juvenile was ( ) /was not ( ) advised of the right to have an adult present	287 ☐	☐
288	Juvenile was ( ) /was not ( ) threatened	288 ☐	☐
289	Juvenile was ( ) /was not ( ) given promise of advantage	289 ☐	☐
290	Statement(s) was ( ) /was not ( ) made spontaneously by juvenile	290 ☐	☐
291	( ) Other (SPECIFY)	291 ☐☐☐	☐
292	( ) Other (SPECIFY)	292 ☐☐☐	☐

EVIDENCE (BAIL HEARINGS ONLY) (CODE EACH ITEM)

CODE (1) SUPPORTS RELEASE
(2) SUPPORTS DETENTION
(3) ITEM NOT MENTIONED IN TESTIMONY

293	( ) Court attendance record	293 ☐	☐
294	( ) Likelihood of running (based on history)	294 ☐	☐
295	( ) Likelihood of failing to appear (Section 133)	295 ☐	☐
296	( ) Interests of the community	296 ☐	☐
297	( ) Welfare of the child	297 ☐	☐
298	( ) Accessibility for assessment for disposition	298 ☐	☐
299	( ) Availability of alternative residence	299 ☐	☐
300	( ) Circumstances of the offence	300 ☐	☐
301	( ) Character of associate(s)	301 ☐	☐
302	( ) Prior record	302 ☐	☐
303	( ) Other SPECIFY	303 ☐☐☐	☐

NOTES.

304 Did defence or prosecutor object to any evidence of witness? 304. ☐ ☐

1. Prosecutor objected
2. Defence objected
3. Neither objected

305 Was there a cross examination? (1) Yes (2) No 305. ☐ ☐

306. Does the judge ask any questions? (1) Yes (2) No 306. ☐ ☐

307. Were exhibits introduced? (1) Yes (2) No 307. ☐ ☐

308 IF YES, how many .... 308. ☐ ☐
(If exhibit a document, go to "DOCUMENTS")

309 Was witness recalled during the hearing? (1) Yes (2) No 309. ☐ ☐

NOTES

Witness 2

Witness re which charge(s)?

310 .... 310 ☐☐ ☐

311 .... 311 ☐☐ ☐

312 .... 312 ☐☐ ☐

313 Witness for: 313 ☐ ☐
1. Prosecutor
2. Defence
3. Judge

314 Is it stated whether witness was called in previous hearing in regard to this charge? (1) Yes (2) No 314 ☐ ☐

315 Is witness in witness box? (1) Yes (2) No 315 ☐ ☐

316 IF YES, is witness sworn or affirmed? 316 ☐ ☐
1. Sworn
2. Affirmed
3. Stated that witness was sworn/affirmed at previous hearing
4. Not sworn or affirmed

317 Was there a request to exclude this witness? (1) Yes (2) No 317 ☐ ☐

318 IF YES, granted? (1) Yes (2) No 318 ☐ ☐

319 Type of witness (specify) .... 319 ☐☐ ☐

320 Is witness a juvenile? (1) Yes (2) No 320 ☐ ☐

Evidence (NOT FOR VOIR DIRE OR BAIL HEARING)
(check as many as apply)

321 ( ) Police Investigation Report 321 ☐ ☐

322 ( ) Eyewitness Account 322 ☐ ☐

323 ( ) Identification of Property 323 ☐ ☐

324 ( ) Character witness 324 ☐ ☐

325 ( ) Other: specify .... 325 ☐☐☐ ☐

326 ( ) Other: specify .... 326 ☐☐☐ ☐

NOTES:

EVIDENCE (VOIR DIRE ONLY) (CODE EACH ITEM)

CODE (1) WAS
(2) WAS NOT
(3) ISSUE NOT MENTIONED IN TESTIMONY

327. Juvenile was ( ) /was not ( ) advised that a statement was not obligatory 327. ☐ ☐
328. Juvenile was ( ) /was not ( ) told that statements could be used against him/her 328. ☐ ☐
329. Juvenile was ( ) /was not ( ) advised of the right to consult a lawyer 329. ☐ ☐
330. Juvenile was ( ) /was not ( ) advised of the right to have an adult present 330. ☐ ☐
331. Juvenile was ( ) /was not ( ) threatened 331. ☐ ☐
332. Juvenile was ( ) /was not ( ) given promise of advantage 332. ☐ ☐
333. Statement(s) was ( ) /was not ( ) made spontaneously by juvenile 333. ☐ ☐
334. ( ) Other (SPECIFY) .... 334. ☐☐☐ ☐
335. ( ) Other. (SPECIFY) .... 335. ☐☐☐ ☐

EVIDENCE (BAIL HEARINGS ONLY) (CODE EACH ITEM)

CODE (1) SUPPORTS RELEASE
(2) SUPPORTS DETENTION
(3) ITEM NOT MENTIONED IN TESTIMONY

336. ( ) Court attendance record 336. ☐ ☐
337. ( ) Likelihood of running (based on history) 337. ☐ ☐
338. ( ) Likelihood of failing to appear (Section 133) 338. ☐ ☐
339. ( ) Interests of the community 339. ☐ ☐
340. ( ) Welfare of the child 340. ☐ ☐
341. ( ) Accessibility for assessment for disposition 341. ☐ ☐
342. ( ) Availability of alternative residence 342. ☐ ☐
343. ( ) Circumstances of the offence 343. ☐ ☐
344. ( ) Character of associate(s) 344. ☐ ☐
345. ( ) Prior record 345. ☐ ☐
346. ( ) Other SPECIFY .... 346. ☐☐☐ ☐

NOTES:

347	Did defence or prosecutor object to any evidence of witness? 1 Prosecutor objected 2 Defence objected 3 Neither objected			347	☐	☐
348	Was there a cross examination?	(1) Yes	(2) No	348	☐	☐
349	Does the judge ask any questions?	(1) Yes	(2) No	349	☐	☐
350	Were exhibits introduced?	(1) Yes	(2) No	350	☐	☐
351	IF YES, how many .... (If exhibit a document, go to "DOCUMENTS")			351	☐	☐
352	Was witness recalled during the hearing?	(1) Yes	(2) No	352	☐	☐

NOTES:

Witness re which charge(s)?

353. .... 353. ☐☐ ☐

354. .... 354. ☐☐ ☐

355. .... 355. ☐☐ ☐

356. Witness for: 356. ☐ ☐
   1. Prosecutor
   2. Defence
   3. Judge

357. Is it stated whether witness was called in previous hearing in regard to this charge? (1) Yes (2) No 357. ☐ ☐

358. Is witness in witness box? (1) Yes (2) No 358. ☐ ☐

359. IF YES, is witness sworn or affirmed? 359. ☐ ☐
   1. Sworn
   2. Affirmed
   3. Stated that witness was sworn/affirmed at previous hearing
   4. Not sworn or affirmed

360. Was there a request to exclude this witness? (1) Yes (2) No 360. ☐ ☐

361. IF YES, granted? (1) Yes (2) No 361. ☐ ☐

362. Type of witness (specify) .... 362. ☐☐ ☐

363. Is witness a juvenile? (1) Yes (2) No 363. ☐ ☐

Evidence (NOT FOR VOIR DIRE OR BAIL HEARING)
(check as many as apply)

364 ( ) Police Investigation Report 364. ☐ ☐

365 ( ) Eyewitness Account 365. ☐ ☐

366 ( ) Identification of Property 366. ☐ ☐

367 ( ) Character witness 367. ☐ ☐

368 ( ) Other: specify .... 368. ☐☐☐ ☐

369 ( ) Other: specify .... 369. ☐☐☐ ☐

NOTES:

EVIDENCE (VOIR DIRE ONLY) (CODE EACH ITEM)

CODE (1) WAS
(2) WAS NOT
(3) ISSUE NOT MENTIONED IN TESTIMONY

370	Juvenile was ( ) /was not ( ) advised that a statement was not obligatory	370	☐	☐
371	Juvenile was ( ) /was not ( ) told that statements could be used against him/her	371	☐	☐
372	Juvenile was ( ) /was not ( ) advised of the right to consult a lawyer	372	☐	☐
373	Juvenile was ( ) /was not ( ) advised of the right to have an adult present	373	☐	☐
374	Juvenile was ( ) /was not ( ) threatened	374	☐	☐
375	Juvenile was ( ) /was not ( ) given promise of advantage	375	☐	☐
376	Statement(s) was ( ) /was not ( ) made spontaneously by juvenile	376	☐	☐
377	( ) Other (SPECIFY)	377	☐☐☐	☐
378	( ) Other (SPECIFY)	378	☐☐☐	☐

EVIDENCE (BAIL HEARINGS ONLY) (CODE EACH ITEM)

CODE (1) SUPPORTS RELEASE
(2) SUPPORTS DETENTION
(3) ITEM NOT MENTIONED IN TESTIMONY

379	( ) Court attendance record	379	☐	☐
380	( ) Likelihood of running (based on history)	380	☐	☐
381	( ) Likelihood of failing to appear (Section 133)	381	☐	☐
382	( ) Interests of the community	382	☐	☐
383	( ) Welfare of the child	383	☐	☐
384	( ) Accessibility for assessment for disposition	384	☐	☐
385	( ) Availability of alternative residence	385	☐	☐
386	( ) Circumstances of the offence	386	☐	☐
387	( ) Character of associate(s)	387	☐	☐
388	( ) Prior record	388	☐	☐
389	( ) Other SPECIFY	389	☐☐☐	☐

NOTES:

390	Did defence or prosecutor object to any evidence of witness? 1. Prosecutor objected 2. Defence objected 3. Neither objected			390. ☐	☐
391.	Was there a cross examination?	(1) Yes	(2) No	391. ☐	☐
392	Does the judge ask any questions?	(1) Yes	(2) No	392. ☐	☐
393.	Were exhibits introduced?	(1) Yes	(2) No	393. ☐	☐
394.	IF YES, how many .... (If exhibit a document, go to "DOCUMENTS")			394. ☐	☐
395.	Was witness recalled during the hearing?	(1) Yes	(2) No	395. ☐	☐

NOTES:

Witness 4

Witness re which charge(s)?

396 .... 396. ☐☐ ☐

397 .... 397. ☐☐ ☐

398 .... 398. ☐☐ ☐

399 Witness for: 399. ☐ ☐

1. Prosecutor
2. Defence
3. Judge

400 Is it stated whether witness was called in previous hearing in regard to this charge? (1) Yes (2) No 400. ☐ ☐

401 Is witness in witness box? (1) Yes (2) No 401. ☐ ☐

402 IF YES, is witness sworn or affirmed? 402. ☐ ☐

1. Sworn
2. Affirmed
3. Stated that witness was sworn/affirmed at previous hearing
4. Not sworn or affirmed

403 Was there a request to exclude this witness? (1) Yes (2) No 403 ☐ ☐

404 IF YES, granted? (1) Yes (2) No 404 ☐ ☐

405 Type of witness (specify) .... 405 ☐☐ ☐

406 Is witness a juvenile? (1) Yes (2) No 406 ☐ ☐

Evidence (NOT FOR VOIR DIRE OR BAIL HEARING)
(check as many as apply)

407 ( ) Police Investigation Report 407 ☐ ☐

408 ( ) Eyewitness Account 408 ☐ ☐

409 ( ) Identification of Property 409 ☐ ☐

410 ( ) Character witness 410 ☐ ☐

411 ( ) Other specify .... 411. ☐☐☐ ☐

412 ( ) Other specify .... 412. ☐☐☐ ☐

NOTES

EVIDENCE (VOIR DIRE ONLY) (CODE EACH ITEM)

CODE (1) WAS
(2) WAS NOT
(3) ISSUE NOT MENTIONED IN TESTIMONY

413 Juvenile was ( ) /was not ( ) advised that a statement was not obligatory — 413 ☐ ☐

414. Juvenile was ( ) /was not ( ) told that statements could be used against him/her — 414. ☐ ☐

415 Juvenile was ( ) /was not ( ) advised of the right to consult a lawyer — 415 ☐ ☐

416 Juvenile was ( ) /was not ( ) advised of the right to have an adult present — 416. ☐ ☐

417. Juvenile was ( ) /was not ( ) threatened — 417. ☐ ☐

418 Juvenile was ( ) /was not ( ) given promise of advantage — 418 ☐ ☐

419 Statement(s) was ( ) /was not ( ) made spontaneously by juvenile — 419 ☐ ☐

420 ( ) Other (SPECIFY) .... 420 ☐☐☐ ☐

421 ( ) Other (SPECIFY) .... 421 ☐☐☐ ☐

EVIDENCE (BAIL HEARINGS ONLY) (CODE EACH ITEM)

CODE (1) SUPPORTS RELEASE
(2) SUPPORTS DETENTION
(3) ITEM NOT MENTIONED IN TESTIMONY

422 ( ) Court attendance record — 422 ☐ ☐

423 ( ) Likelihood of running (based on history) — 423 ☐ ☐

424 ( ) Likelihood of failing to appear (Section 133) — 424 ☐ ☐

425. ( ) Interests of the community — 425 ☐ ☐

426 ( ) Welfare of the child — 426 ☐ ☐

427 ( ) Accessibility for assessment for disposition — 427 ☐ ☐

428 ( ) Availability of alternative residence — 428 ☐ ☐

429 ( ) Circumstances of the offence — 429 ☐ ☐

430 ( ) Character of associate(s) — 430 ☐ ☐

431 ( ) Prior record — 431 ☐ ☐

432 ( ) Other. SPECIFY .... 432 ☐☐☐ ☐

NOTES.

433	Did defence or prosecutor object to any evidence of witness? 1 Prosecutor objected 2 Defence objected 3 Neither objected			433	☐	☐
434	Was there a cross examination?	(1) Yes	(2) No	434	☐	☐
435	Does the judge ask any questions?	(1) Yes	(2) No	435	☐	☐
436	Were exhibits introduced?	(1) Yes	(2) No	436	☐	☐
437	IF YES, how many .... (If exhibit a document, go to "DOCUMENTS".)			437	☐	☐
438	Was witness recalled during the hearing?	(1) Yes	(2) No	438	☐	☐

NOTES:

VOIR DIRE (JUVENILE STATEMENTS, TRIAL ONLY)

439 *Is a juvenile statement related by a witness in court or is there an attempt to do so? (1) Yes (2) No 439. ☐ ☐

440 IF YES, is there a voir dire? 440. ☐ ☐
1 Yes, voir dire proceeds
2 No, defence waives
3 No, defence request denied
4 Statement introduced but no discussion of voir dire
5 Other, specify ....

441 Who relates or attempts to relate a statement made by a juvenile? 441. ☐☐ ☐
01. Police officer
02. Social worker
03. Probation officer
04. School official/teacher
05. Other, specify ....

442 Judge's decision re: admissibility of statement is: 442. ☐ ☐
1 Admissible
2 Partly admissible
3 Not admissible

443 Does judge give reason(s) for decision? (1) Yes (2) No 443. ☐ ☐

IF YES: Reasons for admissible/partly admissible.
(Check as many as apply)

444. ( ) Explanation given to juvenile that it was not obligatory to make a statement 444. ☐ ☐

445. ( ) Juvenile was told statement could be used in proceedings against him/her 445. ☐ ☐

446 ( ) Juvenile was advised of right to consult lawyer 446. ☐ ☐

447 ( ) Juvenile was advised of right to have an adult present 447. ☐ ☐

448 ( ) Juvenile was not threatened 448 ☐ ☐

449 ( ) Juvenile was not given promise of advantage 449 ☐ ☐

450 ( ) Juvenile made statement spontaneously 450 ☐ ☐

451 ( ) Lawyer was present 451. ☐ ☐

452 ( ) Responsible adult was present 452 ☐ ☐

453 ( ) Statement was not made to person in authority 453. ☐ ☐

REASONS CONTINUED ON NEXT PAGE

NOTES:

454 ( ) Other: specify .... 454. ☐☐☐ ☐

455 ( ) Other: specify .... 455. ☐☐☐ ☐

456 ( ) Other: specify .... 456 ☐☐☐ ☐

457. ( ) Other: specify .... 457. ☐☐☐ ☐

Reasons for judges' decision not to admit juvenile statement
(Check as many as apply.)

458 ( ) Insufficient evidence of explanation given to juvenile that it was not obligatory to make a statement 458 ☐ ☐

459 ( ) Insufficient evidence that juvenile was told that statement could be used in proceedings against him/her 459 ☐ ☐

460 ( ) Insufficient evidence that juvenile was advised of right to consult lawyer 460 ☐ ☐

461 ( ) Insufficient evidence that juvenile was advised of right to have adult present 461. ☐ ☐

462 ( ) Evidence that juvenile was threatened 462 ☐ ☐

463 ( ) Evidence that juvenile was given promise of advantage 463 ☐ ☐

464 ( ) Insufficient evidence that statement was made spontaneously 464. ☐ ☐

465 ( ) Insufficient evidence that lawyer was present 465 ☐ ☐

466 ( ) Insufficient evidence that responsible adult was present 466 ☐ ☐

467. ( ) Other: specify .... 467. ☐☐☐ ☐

468 ( ) Other: specify .... 468 ☐☐☐ ☐

469 ( ) Other: specify .... 469 ☐☐☐ ☐

470 ( ) Other: specify .... 470 ☐☐☐ ☐

NOTES:

MOTIONS TO DISMISS (TRIALS ONLY)

471.	*Is there a motion to dismiss by defence at close of crown's case?	(1) Yes	(2) No	471. ☐	☐
472	IF YES, grounds were 1 Insufficient evidence 2 Other, specify			472. ☐	☐
473	Judges decision: 1. Motion denied case continued 2. Case dismissed			473. ☐	☐

FINGERPRINTS

FINGER PRINTS

474	*Does the crown submit finger-prints as evidence?	(1) Yes	(2) No	474 ☐	☐
475	IF YES, is it admitted?	(1) Yes	(2) No	475 ☐	☐
476	IF NOT ADMITTED, does judge give reasons for disallowing admission?	(1) Yes	(2) No	476 ☐	☐
477.	IF YES, specify reasons given .... Specify			477. ☐	☐
478	Specify			478 ☐	☐
479	Specify			479 ☐	☐

SUMMATION

SUMMATION (TRIAL ONLY)

480	*Is there a summing up on behalf of the juvenile?	(1) Yes	(2) No	480 ☐	☐
481	*Is there a summing up by the crown?	(1) Yes	(2) No	481 ☐	☐

NOTES:

PRE-ADJUDICATION TERMINATION OF THE CHARGE

482 *Is there a pre-adjudication termination of the charge? (1) Yes (2) No 482 ☐ ☐

483 IF YES, when does the pre-adjudication termination occur? 483 ☐ ☐
1. Before plea
2. After plea

SPECIFY BY CHARGE AND REASONS GIVEN (Code 97 = "all charges".)

Outcome Codes
1. Withdrawn
2. Dismissed
3. Stayed
4. Adjourned Sine Die Before Adjudication
5. Preliminary Objection

Charge Outcome Reason

484 .... 484 ☐☐☐☐ ☐
485 .... 485 ☐☐☐☐ ☐
486 .... 486 ☐☐☐☐ ☐
487 .... 487 ☐☐☐☐ ☐
'88 .... 488 ☐☐☐☐ ☐
489 .... 489 ☐☐☐☐ ☐
490 .... 490 ☐☐☐☐ ☐

NOTES:

ADJUDICATION

491. *Is there an adjudication at this hearing (1) Yes (2) No 491. ☐ ☐

IF YES. list each charge and adjudication

	CHARGE	GUILT CODE 1. Guilty 2. Not guilty 3. Not stated			FINDING CODE 1. Finding of delinquency 2. No finding of delinquency 3. Not stated				Charge		Guilt	Finding	
492	....	1	2	3	1	2	3	492.	☐	☐	☐	☐	☐
493.	....	1	2	3	1	2	3	493.	☐	☐	☐	☐	☐
494.	....	1	2	3	1	2	3	494.	☐	☐	☐	☐	☐
495	....	1	2	3	1	2	3	495.	☐	☐	☐	☐	☐
496	....	1	2	3	1	2	3	496.	☐	☐	☐	☐	☐
497.	....	1	2	3	1	2	3	497	☐	☐	☐	☐	☐
498	....	1	2	3	1	2	3	498.	☐	☐	☐	☐	☐
499	....	1	2	3	1	2	3	499.	☐	☐	☐	☐	☐

500. When is the adjudication made? 500. ☐☐ ☐

01. No explicit adjudication stated
02. Prior to reading of facts (guilty plea)
03 Immediately after reading of facts (guilty plea)
04 Same time as disposition (guilty plea)
05 After evidence before disposition (not guilty plea)
06 Other: specify ....

501 Does the judge state reasons for decision as to guilt or innocence? (1) Yes (2) No 501. ☐ ☐

IF YES. specify reasons (Check as many as apply)

502. ( ) Crown evidence and submissions 502. ☐ ☐
503 ( ) Defence evidence and submissions 503. ☐ ☐
504 ( ) Juvenile and/or parent(s) statements 504. ☐ ☐
505. ( ) Crown witness credibility 505. ☐ ☐
506. ( ) Defence witness credibility 506. ☐ ☐
507 ( ) Other: specify .... 507. ☐☐☐ ☐
508 ( ) Other: specify .... 508 ☐☐☐ ☐

NOTES.

POST ADJUDICATION (SPEAKING TO DISPOSITION) STATEMENTS INCLUDING THOSE OF COUNSEL

509 *Number of persons making post-adjudication statements during this hearing 509 ☐☐ ☐

Statement 1

510. Made by .... 510 ☐☐ ☐

511. Who initiates the statement by this person? 511. ☐☐ ☐

01. Judge
02. Prosecutor
03. Defence
04. Accused juvenile
05. Parent(s)
06. Probation officer
07. Child protection worker
10. Person makes statement on his own
11. Other: specify ....

512. Is the person in the witness box? (1) Yes (2) No 512 ☐ ☐

513. IF YES, person is: 513 ☐ ☐

1. Sworn
2. Affirmed
3. Neither

Contents of statement

514 .... 514 ☐☐ ☐

515 .... 515 ☐☐ ☐

516 .... 516 ☐☐ ☐

517 .... 517 ☐☐ ☐

518. .... 518 ☐☐ ☐

519. .... 519 ☐☐ ☐

520. Does the person make treatment or disposition recommendations? (1) Yes (2) No 520 ☐ ☐

NOTES:

IF YES, SPECIFY RECOMMENDATIONS

521. .... 521. ☐☐ ☐

522 .... 522. ☐☐ ☐

523 .... 523. ☐☐ ☐

524 .... 524. ☐☐ ☐

525 .... 525. ☐☐ ☐

526 .... 526. ☐☐ ☐

527 Was there a cross examination? (1) Yes (2) No 527. ☐ ☐

528 IF YES, by whom .... 528. ☐☐ ☐

529 Does the judge ask any questions? (1) Yes (2) No 529. ☐ ☐

530. Did person making statement introduce document? (1) Yes (2) No 530 ☐ ☐

IF YES, go to DOCUMENTS

NOTES:

Statement 2

531. Made by .... 531 ☐☐ ☐

532 Who initiates the statement by this person? 532 ☐☐ ☐

- 01. Judge
- 02. Prosecutor
- 03. Defence
- 04. Accused juvenile
- 05. Parent(s)
- 06. Probation officer
- 07. Child protection worker
- 10. Person makes statement on his own
- 11. Other specify ....

533 Is the person in the witness box? (1) Yes (2) No 533 ☐ ☐

534 IF YES, person is 534 ☐ ☐

- 1. Sworn
- 2. Affirmed
- 3. Neither

Contents of statement:

535 .... 535 ☐☐ ☐

536 .... 536 ☐☐ ☐

537 .... 537 ☐☐ ☐

538 .... 538 ☐☐ ☐

539 .... 539 ☐☐ ☐

540 .... 540 ☐☐ ☐

541 Does the person make treatment or disposition recommendations? (1) Yes (2) No 541 ☐ ☐

NOTES:

IF YES, SPECIFY RECOMMENDATIONS

542 .... 542. ☐☐ ☐

543 .... 543. ☐☐ ☐

544 .... 544. ☐☐ ☐

545 .... 545. ☐☐ ☐

546 .... 546. ☐☐ ☐

547. .... 547. ☐☐ ☐

548 Was there a cross examination? (1) Yes (2) No 548. ☐ ☐

549. IF YES, by whom .... 549 ☐☐ ☐

550 Does the judge ask any questions? (1) Yes (2) No 550. ☐ ☐

551 Did person making statement introduce document? (1) Yes (2) No 551. ☐ ☐

IF YES, go to DOCUMENTS ——

NOTES:

Statement 3

552 Made by .... 552 ☐☐ ☐

553 Who initiates the statement by this person? 553 ☐☐ ☐

- 01. Judge
- 02. Prosecutor
- 03. Defence
- 04. Accused juvenile
- 05. Parent(s)
- 06. Probation officer
- 07. Child protection worker
- 10. Person makes statement on his own
- 11. Other: specify ....

554 Is the person in the witness box? (1) Yes (2) No 554 ☐ ☐

555 IF YES, person is 555 ☐ ☐

- 1. Sworn
- 2. Affirmed
- 3. Neither

Contents of statement:

556 .... 556 ☐☐ ☐

557 .... 557 ☐☐ ☐

558 .... 558 ☐☐ ☐

559 .... 559 ☐☐ ☐

560 .... 560 ☐☐ ☐

561 .... 561 ☐☐ ☐

562 Does the person make treatment or disposition recommendations? (1) Yes (2) No 562 ☐ ☐

NOTES.

IF YES, SPECIFY RECOMMENDATIONS

563 .... 563. ☐☐ ☐

564 .... 564. ☐☐ ☐

565 .... 565. ☐☐ ☐

566 .... 566. ☐☐ ☐

567 .... 567. ☐☐ ☐

568 .... 568. ☐☐ ☐

569 Was there a cross examination? (1) Yes (2) No 569. ☐ ☐

570 IF YES, by whom .... 570. ☐☐ ☐

571 Does the judge ask any questions? (1) Yes (2) No 571. ☐ ☐

572. Did person making statement introduce document? (1) Yes (2) No 572. ☐ ☐

IF YES, go to DOCUMENTS

NOTES:

Statement 4

573. Made by .... 573. ☐☐ ☐

574 Who initiates the statement by this person? 574 ☐☐ ☐

- 01. Judge
- 02. Prosecutor
- 03 Defence
- 04 Accused juvenile
- 05. Parent(s)
- 06 Probation officer
- 07 Child protection worker
- 10 Person makes statement on his own
- 11 Other specify ....

575 Is the person in the witness box? (1) Yes (2) No 575 ☐ ☐

576 IF YES, person is 576 ☐ ☐

- 1 Sworn
- 2 Affirmed
- 3 Neither

Contents of statement:

577 .... 577 ☐☐ ☐

578 .... 578 ☐☐ ☐

579 .... 579 ☐☐ ☐

580 .... 580 ☐☐ ☐

581 .... 581 ☐☐ ☐

582 .... 582 ☐☐ ☐

583 Does the person make treatment or disposition recommendations? (1) Yes (2) No 583 ☐ ☐

NOTES:

IF YES, SPECIFY RECOMMENDATIONS

584 .... 584. ☐☐ ☐
585 .... 585. ☐☐ ☐
586 .... 586. ☐☐ ☐
587 .... 587. ☐☐ ☐
588 .... 588. ☐☐ ☐
589 .... 589. ☐☐ ☐
590 Was there a cross examination? (1) Yes (2) No 590. ☐ ☐
591. IF YES, by whom .... 591. ☐☐ ☐
592 Does the judge ask any questions? (1) Yes (2) No 592. ☐ ☐
593 Did person making statement introduce document? (1) Yes (2) No 593. ☐ ☐

IF YES, go to DOCUMENTS

NOTES:

Statement 5

594 Made by .... 594. ☐☐ ☐

595 Who initiates the statement by this person? 595. ☐☐ ☐

- 01 Judge
- 02. Prosecutor
- 03. Defence
- 04. Accused juvenile
- 05. Parent(s)
- 06. Probation officer
- 07. Child protection worker
- 10. Person makes statement on his own
- 11. Other specify ....

596 Is the person in the witness box? (1) Yes (2) No 596. ☐ ☐

597 IF YES, person is 597. ☐ ☐

- 1. Sworn
- 2. Affirmed
- 3. Neither

Contents of statement

598 .... 598. ☐☐ ☐

599 .... 599. ☐☐ ☐

600 .... 600. ☐☐ ☐

601 .... 601. ☐☐ ☐

602 .... 602. ☐☐ ☐

603 .... 603. ☐☐ ☐

604 Does the person make treatment or disposition recommendations? (1) Yes (2) No 604. ☐ ☐

NOTES.

IF YES, SPECIFY RECOMMENDATIONS

605. .... 605. ☐☐ ☐

606. .... 606. ☐☐ ☐

607. .... 607. ☐☐ ☐

608. .... 608. ☐☐ ☐

609. .... 609. ☐☐ ☐

610. .... 610. ☐☐ ☐

611. Was there a cross examination? (1) Yes (2) No 611. ☐ ☐

612. IF YES, by whom .... 612. ☐☐ ☐

613. Does the judge ask any questions? (1) Yes (2) No 613. ☐ ☐

614. Did person making statement introduce document? (1) Yes (2) No 614. ☐ ☐

IF YES, go to DOCUMENTS

NOTES:

BAIL HEARING (IF WITNESS IS CALLED IN BAIL HEARING WITNESS SECTION MUST BE COMPLETED)

615 * Is detention before disposition or bail discussed during this hearing? (1) Yes (2) No 615 ☐ ☐

IF NO, GO TO OUTCOME OF BAIL HEARING, NO 680

616 Is the onus of proving whether or not the juvenile should be detained discussed? (1) Yes (2) No 616 ☐ ☐

617. IF YES, explain .... 617 ☐ ☐

618 IF ON BAIL, is there a request to vary bail order? (1) Yes (2) No 618 ☐ ☐

619. IF YES who makes the request? 619 ☐ ☐

(1) Crown
(2) Defence
(3) Both

620. If in detention, does defence object to continued detention? (1) Yes (2) No 620 ☐ ☐

621 If in detention, does crown agree to release juvenile? (1) Yes (2) No 621 ☐ ☐

IF YES, GO TO CONDITIONS OF BAIL, No 651

BAIL ARGUMENTS (PERTAINING TO REMAND, REVOCATION OF OR REQUEST TO VARY BAIL)

What crown arguments are presented for remanding the juvenile in custody/revoking bail/requesting variation in bail?

(CHECK AS MANY AS APPLY.)

622 ( ) Poor court attendance record 622 ☐ ☐
623 ( ) History of running 623 ☐ ☐
624 ( ) History of failing to appear (Section 133) 624 ☐ ☐
625 ( ) Danger to the community 625 ☐ ☐
626 ( ) Welfare of child 626 ☐ ☐
627 ( ) Need to detain for preparation of disposition 627 ☐ ☐
628 ( ) No other residence available 628 ☐ ☐
629 ( ) Circumstances of offence 629 ☐ ☐
630 ( ) Associates 630 ☐ ☐
631 ( ) Offence history 631 ☐ ☐
632 ( ) Other specify .... 632 ☐☐☐ ☐☐☐
633 ( ) Other specify .... 633 ☐☐☐ ☐☐☐

What defence arguments are presented for not detaining the juvenile not revoking bail requesting variation in bail?
(CHECK AS MANY AS APPLY)

634. ( ) Good court attendance record — 634. ☐ ☐
635. ( ) No history of running — 635. ☐ ☐
636. ( ) No history of failing to appear (Section 133) — 636. ☐ ☐
637. ( ) No danger to community — 637. ☐ ☐
638. ( ) Welfare of child — 638. ☐ ☐
639. ( ) No need to detain for preparation of disposition — 639. ☐ ☐
640. ( ) Other residence available — 640. ☐ ☐
641. ( ) Circumstances of offence — 641. ☐ ☐
642. ( ) Associates — 642. ☐ ☐
643. ( ) Offence history — 643. ☐ ☐
644. ( ) Other: specify .... 644. ☐☐☐ ☐
645. ( ) Other: specify .... 645. ☐☐☐ ☐

646. Is there a summing up on behalf of juvenile? (1) Yes (2) No — 646. ☐ ☐

647. Is there a summing up on behalf of the Crown? (1) Yes (2) No — 647. ☐ ☐

648. Does the judge give reasons for his decision? (1) Yes (2) No — 648. ☐ ☐

IF YES, reasons are: specify

649. Specify .... 649. ☐ ☐
650. Specify .... 650. ☐ ☐

CONDITIONS OF BAIL

651. Are there conditions of bail set out at this hearing? (1) Yes (2) No — 651. ☐ ☐

IF YES, what are the conditions of bail?
(Check as many as apply.)

652. ( ) release to parents care — 652. ☐ ☐
653. ( ) release under supervision of probation officer — 653. ☐ ☐
654. ( ) release to other person or supervision agency — 654. ☐ ☐
655. ( ) curfew — 655. ☐ ☐
656. ( ) referral to forensic services/court clinic — 656. ☐ ☐
657. ( ) Juvenile's own recognizance (bail bond) specify $_________ 657. ☐☐☐☐☐ ☐

CONTINUED ON NEXT PAGE

NOTES:

658. ( ) surety (guarantor) specify $ ________________ 658 ☐☐☐☐☐ ☐

659. ( ) deposit (by juvenile or surety) specify $ ________________ 659 ☐☐☐☐☐ ☐

660. ( ) good behaviour 660. ☐ ☐

661. ( ) remain within court jurisdiction 661. ☐ ☐

662. ( ) seek work or attend school 662. ☐ ☐

663. ( ) non-association with particular persons 663. ☐ ☐

664. ( ) Other, specify .... 664. ☐☐☐ ☐

....

665. ( ) Other, specify .... 665. ☐☐☐ ☐

....

BAIL VARIED

666 Are the conditions of the existing bail order varied? (1) Yes (2) No 666 ☐ ☐

IF YES, specify new conditions only
(check as many as apply.)

667. ( ) release to parent's care 667. ☐ ☐

668. ( ) release under supervision of probation officer 668. ☐ ☐

669. ( ) release to other person or supervision agency 669. ☐ ☐

670. ( ) curfew 670. ☐ ☐

671. ( ) referral to forensic services/court clinic 671. ☐ ☐

672. ( ) juvenile's own recognizance (bail bond) specify $ ________________ 672 ☐☐☐☐☐ ☐

673. ( ) surety (guarantor) specify $ ________________ 673 ☐☐☐☐☐ ☐

674. ( ) deposit (by juvenile or surety) specify $ ________________ 674 ☐☐☐☐☐ ☐

675. ( ) good behaviour 675 ☐ ☐

676. ( ) remain within court jurisdiction 676 ☐ ☐

677. ( ) seek work or attend school 677 ☐ ☐

678. ( ) non-association with particular persons 678 ☐ ☐

679. ( ) Other, specify .... 679 ☐☐☐ ☐

NOTES:

OUTCOME OF BAIL HEARING

680 *Is juvenile in secure detention or on bail prior to this hearing 680. ☐ ☐

1. Yes, in detention
2. Yes, on bail
3. No, not in detention and not on bail

681 *Is the juvenile released after the hearing 681. ☐ ☐

1. Yes, on undertaking with conditions
2. Yes, with conditions (no undertaking)
3. Yes, no conditions, no undertaking
4. Yes, released from bail
5. No, not released
6. Other specify ....

682 IF ON UNDERTAKING TO APPEAR, does the judge explain the consequences of a breach (i.e. a new charge)? (1) Yes (2) No 682. ☐ ☐

NOTES:

TEMPORARY ABSENCE

683	* Is temporary absence requested?	(1) Yes	(2) No	683. ☐	☐
684.	IF YES, by whom			684 ☐☐	☐
685	IF REQUESTED, was temporary absence granted?	(1) Yes	(2) No	685. ☐	☐
686	IF GRANTED: Is juvenile 1. escorted 2. unescorted			686. ☐	☐
687.	How long is the absence for? SPECIFY number of hours: ____________			687. ☐☐☐	☐

What are the reasons for the temporary absence?
(Check all that apply)

688 *	( ) to attend school	688. ☐	☐
689	( ) to visit family	689 ☐	☐
690	( ) to seek employment	690 ☐	☐
691.	( ) doctor's appointment	691. ☐	☐
692.	( ) psychiatric appointment	692 ☐	☐
693	( ) Other: specify	693. ☐☐☐	☐

NOTES:

TRANSFER HEARING

694. "Is transfer to adult court discussed at this hearing? (1) Yes (2) No 694. ☐ ☐

695. IF YES, is transfer hearing requested? (1) Yes (2) No 695 ☐ ☐

696. By whom: 696. ☐ ☐

1. Prosecutor
2. Defence
3. Judge
4. Other: specify ....

697. At what stage of the proceedings was the request made? 697. ☐☐ ☐

01. Bail hearing
02. Arraignment
03. At start of trial
04. During trial, prior to disposition
05. At disposition
06. After final disposition
07. Other: specify ....

698. Is age jurisdiction (14 years or older) ascertained? (1) Yes (2) No 698. ☐ ☐

IF YES. GO TO Q 99 OF JURISDICTION

699. Was transfer to adult court contested? (1) Yes (2) No 699. ☐ ☐

700. IF YES Is hearing a summary submission (no witnesses called) or formal proceeding (witnesses called)? 700. ☐ ☐

1. Summary submission
2. Formal proceeding (witnesses called)

IF WITNESSES CALLED. USE WITNESS FORMS

701. Is there a summing up on behalf of juvenile? (1) Yes (2) No 701. ☐ ☐

702. Is there a summing up by the crown? (1) Yes (2) No 702. ☐ ☐

703. Is transfer to adult court made? (1) Yes (2) No 703. ☐ ☐

NOTES:

704	Does judge give reasons for his decision?	(1) Yes	(2) No	704 ☐	☐

IF YES, specify reasons. (Check all that apply)

705. ( )	For the good of the child	705. ☐	☐
706. ( )	In the interests of the community	706. ☐	☐
707. ( )	Child's age	707. ☐	☐
708. ( )	Seriousness of the offence	708. ☐	☐
709. ( )	Child's psychological condition	709. ☐	☐
710. ( )	Amenability to rehabilitation at treatment facility	710. ☐	☐
711. ( )	Availability of adequate treatment facility	711. ☐	☐
712. ( )	Previous offence history	712. ☐	☐
713. ( )	Protection of child's rights in adult court	713. ☐	☐
714. ( )	Co-defendant is an adult	714. ☐	☐
715. ( )	Other: specify	715. ☐☐☐	☐
716. ( )	Other: specify	716. ☐☐☐	☐
717. ( )	Other: specify	717. ☐☐☐	☐

NOTES:

REVIEW OF DISPOSITION

718 *Is this hearing a review of a previous disposition? 718 ☐ ☐

1 Yes, review of disposition only
2 Yes, review of disposition and other matters dealt with
3 No

719 IF YES, re which charges? charge .... 719. ☐☐ ☐

720 Charge: .... 720. ☐☐ ☐

721. Charge .... 721. ☐☐ ☐

722 Is there a discussion of the review of disposition? (1) Yes (2) No 722. ☐ ☐

IF YES, GO TO POST-ADJUDICATION STATEMENTS AND COMPLETE ITEM 723 BELOW

723 After the review of disposition, the disposition is: 723 ☐ ☐

1 Changed/extended (GO TO DISPOSITION SECTION)
2 Completed
3 Stays the same

IF AN ADJOURNMENT GO TO ADJOURNMENT SECTION.

NOTES:

RESIDENTIAL STATUS

724. *Where is the juvenile residing at the close of the hearing? 725 ☐☐ . ☐

01 Parents home
02 Group or foster home
03. Detention centre
04 Training school
05. Other assessment and/or treatment facility
06 Independent living
07. Other: specify ....

HEARING OUTCOME

725. *Is there an adjournment date set at this hearing? (1) Yes (2) No 725. ☐ ☐

IF YES, GO TO ADJOURNMENT SECTION:

726. IF NO, reason case ends 726 ☐☐ ☐

01. All charges dismissed (no evidence offerred)
02. All charges withdrawn
03. Proceedings stayed
04 Preliminary objection
05 Adjourned sine die before adjudication
06 Adjourned sine die after adjudication, no disposition
07. Adjourned sine die after adjudication, juvenile received disposition (GO TO DISPOSITION SECTION)
10 Juvenile transfered to adult court
11. Juvenile transfered to another juvenile court
12. Juvenile diverted
13 Adjudicated not guilty after trial
14. Juvenile received disposition (GO TO DISPOSITION SECTION)
15 Review of disposition, juvenile completed disposition
16 Review of disposition, disposition changed/extended
17. Review of disposition, disposition stays the same

18 OTHER, specify ....

NOTES:

DISPOSITION

727 *Is a disposition given at this hearing (1) Yes (2) No 727. ☐ ☐

IF YES (Check all that apply)

728 ( ) Final disposition suspended 728 ☐ ☐

729. ( ) Absolute discharge (despite finding of delinquency) 729. ☐ ☐

730. ( ) Conditional discharge 730. ☐ ☐

731. ( ) Juvenile to pay fine 731. ☐ ☐

732 Amount $ .... 732. ☐☐☐☐ ☐

733. ( ) Parent to pay fine 733. ☐ ☐

734. Amount $ .... 734 ☐☐☐☐ ☐

735. ( ) Juvenile to contribute to charity 735 ☐ ☐

736 Amount $ .... 736. ☐☐☐☐ ☐

737 ( ) Restitution orders — juvenile to pay 737 ☐ ☐

738 Amount $ .... 738 ☐☐☐☐ ☐

Recipient

739 ( ) Victim(s) 739 ☐ ☐

740 ( ) Relatives of victim 740. ☐ ☐

741. ( ) Community 741. ☐ ☐

742 ( ) Other (Specify) .... 742. ☐ ☐

743. ( ) Restitution orders — parent to pay 743. ☐ ☐

744 Amount $ .... 744. ☐☐☐☐ ☐

Recipient

745 ( ) Victim(s) 745 ☐ ☐

746 ( ) Relatives of victim 746 ☐ ☐

747 ( ) Community 747 ☐ ☐

748 ( ) Other (Specify) .... 748 ☐ ☐

749 ( ) Victim/offender reconciliation 749. ☐ ☐

750. ( ) Community service order 750 ☐ ☐

751 Type of community service .... 751 ☐ ☐

....

NOTES:

752 Specify number of hours of community service .... 752. ☐☐☐ ☐

753. Specify number of days allowed to perform community service .... 753. ☐☐☐ ☐

754 ( ) Foster or group home placement 754 ☐ ☐

755 Length of term (1) Indefinite (2) Definite 755 ☐ ☐

756 If definite, specify number of months .... 756. ☐☐ ☐

757. ( ) Wardship ordered (to child protection agency) 757. ☐ ☐

758 Length of term. (1) Indefinite (2) Definite 758. ☐ ☐

759 If definite, specify number of months .... 759 ☐☐ ☐

760 ( ) Training school 760 ☐ ☐

761 Length of term: (1) Indefinite (2) Definite 761 ☐ ☐

762 If definite, specify number of months .... 762 ☐☐ ☐

763 ( ) Probation ordered 763 ☐ ☐

764 Length of term: (1) Indefinite (2) Definite 764 ☐ ☐

765 If definite, specify number of months .... 765 ☐☐ ☐

766 Is juvenile given copy of probation order? (1) Yes (2) No 766 ☐ ☐

767. Is there mention of juvenile signing order by the judge? (1) Yes (2) No 767 ☐ ☐

768 Is this order added to existing probation order? (1) Yes (2) No 768 ☐ ☐

PROBATION OR CONDITIONAL DISCHARGE CONDITIONS
(Check all that apply)

769 ( ) Report to probation officer 769 ☐ ☐

770 ( ) Keep a curfew 770 ☐ ☐

771 ( ) Attend school 771 ☐ ☐

772 ( ) Consult a psychiatrist/psychologist/counsellor 772. ☐ ☐

773 ( ) Make restitution to victim 773 ☐ ☐

774 ( ) Community service 774 ☐ ☐

775. ( ) Attend residential program 775. ☐ ☐

776 ( ) Reside at specific location with parent/guardian 776 ☐ ☐

777. ( ) Non-association with certain person(s) 777. ☐ ☐

778 ( ) Obey parents/guardian 778. ☐ ☐

CONTINUED ON NEXT PAGE

NOTES:

779 ( ) Referral to community based program 779 ☐ ☐

780 ( ) Other, specify .... 780 ☐☐☐ ☐

OTHER DISPOSITIONS

781. ( ) Other disposition (specify) .... 781 ☐☐☐ ☐

782. ( ) Other dispos[illegible] (specify) .... 782 ☐☐☐ ☐

*JUDGE'S REASONS FOR DISPOSITION

783 Are reasons given by Judge for disposition? (1) Yes (2) No 783 ☐ ☐

If yes, specify

784 reason .... 784 ☐☐ ☐

785 reason .... 785 ☐☐ ☐

786 reason .... 786 ☐☐ ☐

787. Is there mention of juvenile receiving written copy of disposition (other than probation order)? (1) Yes (2) No 787 ☐ ☐

788 Does the judge request a report on the completion of the juvenile disposition (without specifying a further court appearance)? 788 ☐ ☐

1 Yes, written report requested
2 Yes, oral report requested
3. Yes, both written and oral reports requested
4 Yes, report requested, type not specified
5 No report requested

NOTES:

ADJOURNMENT

789.	*Is this hearing adjourned (1) Yes (2) No	789.	☐	☐
	IF YES, give the reason(s) for adjournment (Check all that apply)			
790.	( ) To obtain counsel	790.	☐	☐
791.	( ) For trial	791.	☐	☐
792.	( ) To set date for hearing	792.	☐	☐
793	( ) To prepare bail hearing	793.	☐	☐
794	( ) In custody review	794.	☐	☐
795.	( ) To transfer to other judge in this court	795.	☐	☐
796	( ) For competency hearing	796.	☐	☐
797.	( ) For transfer hearing	797	☐	☐
798	( ) Other, specify	798	☐☐☐	☐
	To get presence of:			
799	( ) Juvenile — with warrant	799	☐	☐
800.	( ) Juvenile — without warrant	800.	☐	☐
801.	( ) Parent — with warrant	801	☐	☐
802	( ) Parent — without warrant	802	☐	☐
803	( ) Witness — with subpoena	803	☐	☐
804	( ) Witness — without subpoena	804	☐	☐
805	( ) Probation officer	805	☐	☐
806	( ) Defence counsel	806	☐	☐
807	( ) Social worker	807	☐	☐
808	( ) Other person, specify	808	☐☐☐	☐
809	( ) To find placement	809	☐	☐
810	( ) To prepare for disposition (no reports requested)	810	☐	☐
811.	( ) To obtain pre-disposition report	811	☐	☐
812	( ) For review of disposition	812	☐	☐
813	( ) For psychiatric/psychological assessment	813	☐	☐
814	( ) For competency assessment	814	☐	☐
815	( ) End of court day	815	☐	☐

NOTES:

816. ( ) Other specify .... 816. ☐☐☐☐ ☐

817. Is written material requested? (1) Yes (2) No 817. ☐ ☐

818 IF YES, by whom: 818. ☐ ☐
1. Judge
2. Prosecutor
3. Defence

Nature of written material requested: (Check all that apply)

819. ( ) Predisposition report by probation/social worker 819. ☐ ☐

820. ( ) Postdisposition report by probation/social worker 820. ☐ ☐

821. ( ) Psychological/psychiatric assessment report 821. ☐ ☐

822. ( ) Psychological/psychiatric treatment report 822. ☐ ☐

823. ( ) Unspecified psychological/psychiatric report 823. ☐ ☐

824 ( ) Group home report 824. ☐ ☐

825. ( ) School report/home study report 825 ☐ ☐

826 ( ) Other: specify .... 826. ☐☐☐ ☐

827. ( ) Other: specify .... 827. ☐☐☐ ☐

828 Is oral report requested? (1) Yes (2) No 828. ☐ ☐

IF YES, by whom

829 IF YES, by whom 829. ☐ ☐
1. Judge
2. Prosecutor
3 Defence

Nature of oral report requested: (Check all that apply)

830. ( ) Predisposition report by probation/social worker 830. ☐ ☐

831 ( ) Postdisposition report by probation/social worker 831. ☐ ☐

832. ( ) Psychological/psychiatric assessment report 832. ☐ ☐

833 ( ) Psychological/psychiatric treatment report 833. ☐ ☐

834 ( ) Unspecified psychological/psychiatric report 834. ☐ ☐

835 ( ) Group home report 835. ☐ ☐

836 ( ) School report/home study report 836. ☐ ☐

837 ( ) Other: specify .... 837. ☐☐☐ ☐

838. ( ) Other: specify .... 838. ☐☐☐ ☐

Date and time of next court appearance

839 Day 839. ☐☐ ☐

840 Month 840 ☐☐ ☐

841 Time 841. ☐☐☐☐ ☐

TIME HEARING ENDS
RECORD HERE ____________________
AND ENTER ON PAGE 3

GENERAL ENVIRONMENT

842 *Were there audibility problems in this hearing? (1) Yes (2) No 842 ☐ ☐

Specify:

843. problem: .... 843 ☐☐ ☐

844. problem: .... 844 ☐☐ ☐

845. problem: .... 845 ☐☐ ☐

846. *Were there illumination/ lighting problems? (1) Yes (2) No 846 ☐ ☐

Specify:

847. problem: .... 847 ☐☐ ☐

848. problem: .... 848 ☐☐ ☐

849 *Any unusual characteristics of the hearing? (1) Yes (2) No 849 ☐ ☐

Specify

850 point: .... 850 ☐☐ ☐

851. point: .... 851 ☐☐ ☐

852 point: .... 852 ☐☐ ☐

853 point: .... 853 ☐☐ ☐

854 point: .... 854 ☐☐ ☐

855 point: .... 855 ☐☐ ☐

856 point .... 856 ☐☐ ☐

857 point .... 857 ☐☐ ☐

858 *Was this hearing observed jointly? (1) Yes (2) No 858 ☐ ☐

859 *Number of applicable items .... 859 ☐☐☐ ☐

860 *Difference score was .... 860 ☐☐☐ ☐

861. *Number of agreed errors observer 1 .... 861 ☐☐ ☐

862 *Number of agreed errors observer 2 .... 862 ☐☐ ☐

863. *Number of non-resolved differences .... 863 ☐☐ ☐

NOTES:

Completion statement

I have observed the hearing described above.

864. * .... 864. ☐☐☐ ☐
Observer 1 Signature Date

865. * .... 865. ☐☐☐ ☐
Observer 2 Signature Date

APPENDIX B

COURT RECORD PROFILE

DATE OF HEARING:________ EVENT #:_______
HEARING #:_____

NAME OF YOUTH:__________ PROJECT ID #:__________
COURT FILE #:_____________ BIRTHDATE:___________
SEX: ____

JUDGE PRESIDING:____
CROWN ATTORNEY:____
DEFENCE COUNSEL:_______________________________________
CLERK:____
PARENT(S):__________________ PROBATION OFFICER:_______
NOTICE TO PARENT:__________ WRITTEN/ORAL:___________
NOTICE SENT TO:____________
CHARGES BEFORE THE COURT:_____________________________
____
____
____

INFORMATION CONSTABLE: ____________________________________
DATE OF OFFENCE:________
CHARGE:____
PLEA:________
CROWN ELECTION:________
SUMMONS:______________ OFFICER:______

DETENTION:_________________________________
BAIL:____
CONDITIONS OF BAIL:____
____
____
____
____

ADJOURNMENT:______________
NEXT COURT DATE/PLACE:________________
DISPOSITION:_________________
NATURE OF DISPOSITION____________ ___________________________

APPENDIX C

TABLE 2

TEST OF DIFFERENCES IN PROPORTION OF CASES TO HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Frequency of Cases	250	517
Frequency of Hearings	579	1433
Sample		
Proportion	0.431779	0.360782
Variance	0.000424	0.000161
Stnd Deviation	0.020603	0.012690

Combined	
Sample Proportion	0.381213
Sampling Variance	0.000572
Sampling St. Dev.	0.023917
Decision Limit	
Upper Limit	0.039343
Actual P2-P1	-0.070997
DECISION:	**ACCEPT Ho**

TABLE 3

TEST OF DIFFERENCES IN THE PROPORTION OF MALES TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Time One	Time Two
Frequency of Males	190	398
Frequency of Cases	250	517
Sample		
Proportion	0.760000	0.769826
Variance	0.000733	0.000343
Stnd Deviation	0.027065	0.018531

Combined	
Sample Proportion	0.766623
Sampling Variance	0.001062
Sampling St. Dev.	0.032584
Decision Limits	
Lower limits	-0.063864
Upper limit	0.063864
Actual P2-P1	0.009826
DECISION:	**ACCEPT Ho**

TABLE 4

TEST OF DIFFERENCES IN THE PROPORTION OF FEMALES TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Time One	Time Two
Frequency of Females	60	119
Frequency of Cases	250	517
Sample		
Proportion	0.240000	0.230174
Variance	0.000733	0.000343
Stnd Deviation	0.027065	0.018531

Combined	
Sample Proportion	0.233377
Sampling Variance	0.001062
Sampling St. Dev.	0.032584
Decision Limits	
Lower limits	-0.063864
Upper limit	0.063864
Actual P2-P1	-0.009826

DECISION: **ACCEPT Ho**

TABLE 5

TEST OF DIFFERENCES IN THE PROPORTION OF CAUCASIONS TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Time One	Time Two
Frequency of Caucasions	170	305
Frequency of Cases	250	517
Sample		
Proportion	0.680000	0.589942
Variance	0.000874	0.000469
Stnd Deviation	0.029562	0.021652

Combined	
Sample Proportion	0.619296
Sampling Variance	0.001399
Sampling St. Dev.	0.037405
Decision Limits	
Lower limits	-0.073313
Upper limit	0.073313
Actual P2-P1	-0.090058

DECISION: **ACCEPT H1**

TABLE 6

TEST OF DIFFERENCES IN PROPORTION OF CACASIONS TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**	
Z Score	**1.645**	
Type of Test:	**One Tailed**	
	Time One	**Time Two**
Frequency of Caucasions	170	305
Frequency of Cases	250	517
Sample		
Proportion	0.680000	0.589942
Variance	0.000874	0.000469
Stnd Deviation	0.029562	0.021652
Combined		
Sample Proportion	0.619296	
Sampling Variance	0.001399	
Sampling St. Dev.	0.037405	
Decision Limit		
Upper Limit	0.061531	
Actual P2-P1	-0.090058	
DECISION:	**ACCEPT Ho**	

TABLE 7

TEST OF DIFFERENCES IN THE PROPORTION OF OTHER RACIAL/ETNIC GROUPS TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Time One	Time Two
Frequency of Others	8	104
Frequency of Cases	250	517
Sample		
Proportion	0.032000	0.201161
Variance	0.000124	0.000311
Stnd Deviation	0.011154	0.017647

Combined	
Sample Proportion	0.146023
Sampling Variance	0.000740
Sampling St. Dev.	0.027203
Decision Limits	
Lower limits	-0.053318
Upper limit	0.053318
Actual P2-P1	0.169161

DECISION: **ACCEPT H1**

TABLE 8

TEST OF DIFFERENCES IN PROPORTION OF OTHER RACIAL/ETHNIC GROUPS TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Frequency of Others	8	104
Frequency of Cases	250	517
Sample		
Proportion	0.032000	0.201161
Variance	0.000124	0.000311
Stnd Deviation	0.011154	0.017647

Combined	
Sample Proportion	0.146023
Sampling Variance	0.000740
Sampling St. Dev.	0.027203
Decision Limit	
Upper Limit	0.044749
Actual P2-P1	0.169161

DECISION: **ACCEPT H1**

TABLE 9

TEST OF DIFFERENCES IN PROPORTION OF YOUTH IN DON'T KNOW CATEGORY TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Time One	Time Two
Freq. of Youth in DK Cat.	42	31
Frequency of Cases	250	517
Sample		
Proportion	0.168000	0.059961
Variance	0.000561	0.000109
Stnd Deviation	0.023693	0.010452

Combined	
Sample Proportion	0.095176
Sampling Variance	0.000511
Sampling St. Dev.	0.022606
Decision Limits	
Lower limit	-0.044308
Upper limit	0.044308
Actual P2-P1	-0.108039

DECISION: **ACCEPT H1**

TABLE 10

TEST OF DIFFERENCES IN PROPORTION OF YOUTH IN DON'T KNOW CATEGORY TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. of Youth in DK Cat.	42	31
Frequency of Cases	250	517
Sample		
Proportion	0.168000	0.059961
Variance	0.000561	0.000109
Stnd Deviation	0.023693	0.010452

Combined	
Sample Proportion	0.095176
Sampling Variance	0.000511
Sampling St. Dev.	0.022606
Decision Limit	
Lower Limit	-0.037187
Actual P2-P1	-0.108039
DECISION:	**ACCEPT Ho**

TABLE 11

TEST OF DIFFERENCES IN PROPORTION OF NATIVE CANADIANS TO TOTAL CASES AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Time One	**Time Two**
Freq. of Native Canadian	30	77
Frequency of Cases	250	517
Sample		
Proportion	0.120000	0.148936
Variance	0.000424	0.000246
Stnd Deviation	0.020594	0.015673

Combined	
Sample Proportion	0.139505
Sampling Variance	0.000712
Sampling St. Dev.	0.026690
Decision Limits	
Lower limit	-0.052313
Upper limit	0.052313
Actual P2-P1	0.028936
DECISION:	**ACCEPT Ho**

TABLE 12

TEST OF DIFFERENCES IN PROPORTION OF CROWN PROSECUTORS TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. of Crown Prosecutors	113	1408
Frequency of Hearings	579	1433
Sample		
Proportion	0.195164	0.982554
Variance	0.000272	0.000012
Stnd Deviation	0.016485	0.003460

Combined	
Sample Proportion	0.755964
Sampling Variance	0.000447
Sampling St. Dev.	0.021151
Decision Limit	
Upper Limit	0.034793
Actual P2-P1	0.787390
DECISION:	**ACCEPT H1**

TABLE 13

TEST OF DIFFERENCES IN PROPORTION OF DEFENSE COUNSEL TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. of Defense Counsel	334	1034
Frequency of Hearings	579	1433
Sample		
Proportion	0.576857	0.721563
Variance	0.000422	0.000140
Stnd Deviation	0.020550	0.011845

Combined	
Sample Proportion	0.679920
Sampling Variance	0.000528
Sampling St. Dev.	0.022973
Decision Limit	
Upper Limit	0.037790
Actual P2-P1	0.144707

DECISION: **ACCEPT H1**

TABLE 14

TEST OF DIFFERENCES IN PROPORTION OF WHITE AND NATIVE CANADIANS WITH REPRESENTATION TO TOTAL CASES FOR WHITE AND NATIVE CANADIANS AT TIME TWO

Level of Significance	**0.05**
Z Score	**1.96**
Type of Test:	**Two Tailed**

	Caucasion	Native Canadian
Freq. with Legal Repres.	265	70
Frequency of Cases	305	77
Sample		
Proportion	0.868852	0.909091
Variance	0.000375	0.001087
Stnd Deviation	0.019360	0.032976

Combined	
Sample Proportion	0.876963
Sampling Variance	0.001755
Sampling St. Dev.	0.041893
Decision Limits	
Lower limit	-0.082111
Upper limit	0.082111
Actual P2-P1	0.040238

DECISION: **ACCEPT Ho**

TABLE 15

TEST OF DIFFERENCES IN PROPORTION OF YOUTH WITH AND WITHOUT A RECORD WHO HAVE REPRESENTATION AT TIME TWO

Level of Significance	**0.05**	
Z Score	**1.645**	
Type of Test:	**One Tailed**	

	No Record	Have Record
Freq. with Legal Rep.	275	145
Frequency of Cases	420	420
Sample		
Proportion	0.654762	0.345238
Variance	0.000539	0.000539
Stnd Deviation	0.023227	0.023227

Combined	
Sample Proportion	0.500000
Sampling Variance	0.001190
Sampling St. Dev.	0.034503
Decision Limit	
Upper Limit	0.056758
Actual P2-P1	-0.309524
DECISION:	**ACCEPT Ho**

TABLE 17

TEST OF DIFFERENCES IN PROPORTION OF HEARINGS SET OVER FOR TRIAL TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. Hearings Set Over	71	182
Frequency of Hearings	579	1433
Sample		
Proportion	0.122625	0.127006
Variance	0.000186	0.000077
Stnd Deviation	0.013643	0.008799

Combined	
Sample Proportion	0.125746
Sampling Variance	0.000267
Sampling St. Dev.	0.016327
Decision Limit	
Upper Limit	0.026859
Actual P2-P1	0.004381

DECISION: **ACCEPT Ho**

TABLE 18

TEST OF DIFFERENCES IN PROPORTION OF HEARINGS ADJOURNED FOR PLEA TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance : 0.05
Z Score 1.645
Type of Test: One Tailed

	Time One		Time Two
Freq. Hearings Adjourned	51		245
Frequency of Hearings	579		1433
Sample			
Proportion	0.088083		0.170970
Variance	0.000139		0.000099
Stnd Deviation	0.011789		0.009949
Combined			
Sample Proportion		0.147117	
Sampling Variance		0.000304	
Sampling St. Dev.		0.017443	
Decision Limit			
Upper Limit		0.028694	
Actual P2-P1		0.082887	

DECISION: **ACCEPT H1**

TABLE 19

TEST OF DIFFERENCES IN PROPORTION OF HEARINGS WHERE BAIL/DETENTION IS DISCUSSED TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. with Bail Discussed	108	218
Frequency of Hearings	579	1433
Sample		
Proportion	0.186528	0.152128
Variance	0.000263	0.000090
Stnd Deviation	0.016202	0.009491

Combined	
Sample Proportion	0.162028
Sampling Variance	0.000329
Sampling St. Dev.	0.018145
Decision Limit	
Upper Limit	0.029849
Actual P2-P1	-0.034400
DECISION:	**ACCEPT Ho**

TABLE 20

TEST OF DIFFERENCES IN PROPORTION OF HEARINGS WHERE JURISDICTION ASCERTAINED TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. with Jurisdiction Asc.	300	559
Frequency of Hearings	579	1433
Sample		
Proportion	0.518135	0.390091
Variance	0.000432	0.000166
Stnd Deviation	0.020784	0.012890

Combined	
Sample Proportion	0.426938
Sampling Variance	0.000593
Sampling St. Dev.	0.024358
Decision Limit	
Upper Limit	0.040068
Actual P2-P1	-0.128044

DECISION: **ACCEPT Ho**

TABLE 21

TEST OF DIFFERENCES IN PROPORTION OF HEARINGS ADJOURNED FOR SOCIAL REPORTS TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One		Time Two
Freq. Adjourned for Report	21		192
Frequency of Hearings	579		1433
Sample			
Proportion	0.036269		0.133985
Variance	0.000060		0.000081
Stnd Deviation	0.007777		0.009002
Combined			
Sample Proportion		0.105865	
Sampling Variance		0.000230	
Sampling St. Dev.		0.015151	
Decision Limit			
Upper Limit		0.024923	
Actual P2-P1		0.097715	

DECISION: **ACCEPT H1**

TABLE 22

TEST OF DIFFERENCES IN PROPORTION OF VOIR DIRES TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Frequency of Voir Dires	5	14
Frequency of Hearings	579	1433
Sample		
Proportion	0.008636	0.009770
Variance	0.000015	0.000007
Stnd Deviation	0.003849	0.002599

Combined	
Sample Proportion	0.009443
Sampling Variance	0.000023
Sampling St. Dev.	0.004763
Decision Limit	
Upper Limit	0.007835
Actual P2-P1	0.001134
DECISION:	**ACCEPT Ho**

TABLE 23

TEST OF DIFFERENCES IN PROPORTION OF TECHNICAL ARGUMENTS TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**	
Z Score	**1.645**	
Type of Test:	**One Tailed**	

	Time One	Time Two
Freq. of Tech. Argument	4	10
Frequency of Hearings	579	1433
Sample		
Proportion	0.006908	0.006978
Variance	0.000012	0.000005
Stnd Deviation	0.003445	0.002200

Combined	
Sample Proportion	0.006958
Sampling Variance	0.000017
Sampling St. Dev.	0.004093
Decision Limit	
Upper Limit	0.006734
Actual P2-P1	0.000070

DECISION: **ACCEPT Ho**

TABLE 24

TEST OF DIFFERENCES IN PROPORTION OF PLEA BARGAINING TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**	
Z Score	**1.645**	
Type of Test:	**One Tailed**	

	Time One	Time Two
Freq. of Plea Bargaining	4	20
Frequency of Hearings	579	1433
Sample		
Proportion	0.006908	0.013957
Variance	0.000012	0.000010
Stnd Deviation	0.003445	0.003100

Combined	
Sample Proportion	0.011928
Sampling Variance	0.000029
Sampling St. Dev.	0.005346
Decision Limit	
Upper Limit	0.008794
Actual P2-P1	0.007048
DECISION:	**ACCEPT Ho**

TABLE 25

TEST OF DIFFERENCES IN PROPORTION OF CASES DISMISSED TO TOTAL HEARINGS AT TIME ONE & TIME TWO

Level of Significance	**0.05**
Z Score	**1.645**
Type of Test:	**One Tailed**

	Time One	Time Two
Freq. of Cases Dismissed	2	17
Frequency of Hearings	579	1433
Sample		
Proportion	0.003454	0.011863
Variance	0.000006	0.000008
Stnd Deviation	0.002440	0.002861

Combined	
Sample Proportion	0.009443
Sampling Variance	0.000023
Sampling St. Dev.	0.004763
Decision Limit	
Upper Limit	0.007835
Actual P2-P1	0.008409

DECISION: **ACCEPT H1**

APPENDIX D

TABLE 47
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE FOR YOUTH REPRESENTED BY DUTY COUNSEL (N=269)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	4.317	9	.480	.664	.741
JUDID	4.317	9	.480	.664	.741
Explained	4.317	9	.480	.664	.741
Residual	186.351	258	.722		
Total	190.668	267	.714		

TABLE 48
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGE FOR YOUTH REPRESENTED BY RETAINED COUNSEL (N=167)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	4.584	9	.509	.861	.561
JUDID	4.584	9	.509	.861	.561
Explained	4.584	9	.509	.861	.561
Residual	92.235	156	.591		
Total	96.819	165	.587		

TABLE 49
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGES FOR YOUTH REPRESENTED BY OTHER COUNSEL (N=13)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	20.731	6	3.455	.846	.578
JUDID	20.731	6	3.455	.846	.578
Explained	20.731	6	3.455	.846	.578
Residual	24.500	6	4.083		
Total	45.231	12	3.769		

TABLE 50
RESULTS OF ANOVA FOR EXPLAINING RIGHT TO COUNSEL BY JUDGES FOR YOUTH REPRESENTED BY AGENT FOR RETAINED REPRESENTATIVE (N=27)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	53.083	7	7.583	1.857	.134
JUDID	53.083	7	7.583	1.857	.134
Explained	53.083	7	7.583	1.857	.134
Residual	77.583	19	4.083	1.857	.134
Total	130.667	26	5.026		

TABLE 51
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID FOR YOUTH WITH A PRIOR RECORD (N=205)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	119.347	9	13.261	1.095	.368
JUDID	119.347	9	13.261	1.095	.368
Explained	119.347	9	13.261	1.095	.368
Residual	2348.942	194	12.108		
Total	2468.289	203	12.159		

TABLE 52
RESULTS OF ANOVA FOR ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH WITH NO PRIOR RECORD (N=468)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	111.249	8	13.906	1.197	.299
JUDID	111.249	8	13.906	1.197	.299
Explained	111.249	8	13.906	1.197	.299
Residual	5309.266	457	11.618		
Total	5420.515	465	11.657		

TABLE 53
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH WITH LEGAL REPRESENTATION (N=1031)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	137.316	10	13.732	1.358	.195
JUDID	137.316	10	13.732	1.358	.195
Explained	137.316	10	13.732	1.358	.195
Residual			10.110		
Total			10.146		

TABLE 54
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH WITH NO LEGAL REPRESENTATION (N=385)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	96.548	8	12.068	1.158	.324
JUDID	96.548	8	12.068	1.158	.324
Explained	96.548	8	12.068	1.158	.324
Residual	3909.512	375	10.425		
Total	4006.060	383	10.460		

TABLE 55

RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE BY TYPE OF REPRESENTATION (N=1433)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	8463.284	14	604.520	420.327	.000
JUDID	7.885	10	.789	.548	.856
REPTYPE	8318.257	4	2079.564	1445.936	.000
TWO WAY INTER	16.751	31	.540	.376	.999
Explained	8480.034	45	188.445	131.027	.000
Residual	1315.966	915	1.438		
Total	9796.000	960	10.204		

TABLE 56

RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH REPRESENTED BY DUTY COUNSEL (N=269)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	16.794	9	1.866	.542	.843
JUDID	16.794	9	1.866	.542	.843
Explained	16.794	9	1.866	.542	.843
Residual	888.919	258	3.445		
Total	905.713	267	3.392		

TABLE 57
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH REPRESENTED BY RETAINED COUNSEL (N=167)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	3.769	9	.419	.702	.706
JUDID	3.769	9	.419	.702	.706
Explained	3.769	9	.419	.702	.706
Residual	93.051	156	.596		
Total	96.819	165	.587		

TABLE 58
RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH REPRESENTED BY LEGAL AID (N=488)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	4.074	10	.407	.581	.830
JUDID	4.074	10	.407	.581	.830
Explained	4.074	10	.407	.581	.830
Residual	333.996	476	.702		
Total	338.070	486	.696		

TABLE 59

RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH REPRESENTED BY OTHER COUNSEL (N=13)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.000	6	.000		
JUDID	.000	6	.000		
Explained	.000	6	.000		
Residual	.000	6	.000		
Total	.000	12	.000		

TABLE 60

RESULTS OF ANOVA FOR EXPLAINING ELIGIBILITY FOR LEGAL AID BY JUDGE FOR YOUTH REPRESNTED BY AGENT FOR RETAINED REPRESENTATIVE (N=27)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.000	7	.000		
JUDID	.000	7	.000		
Explained	.000	7	.000		
Residual	.000	19	.000		
Total	.000	26	.000		

TABLE 61
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH A PRIOR RECORD (N=136)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.928	8	.116	1.593	.133
JUDID	.928	8	.116	1.593	.133
Explained	.928	8	.116	1.593	.133
Residual	9.176	126	.073		
Total	10.104	134	.075		

TABLE 62
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH NO PRIOR RECORD (N=265)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.401	8	.050	.821	.585
JUDID	.401	8	.050	.821	.585
Explained	.401	8	.050	.821	.585
Residual	15.584	255	.061		
Total	15.985	263	.061		

TABLE 63
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH LEGAL REPRESENTATION (N=577)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.382	9	.154	1.281	.244
JUDID	1.382	9	.154	1.281	.244
Explained	1.382	9	.154	1.281	.244
Residual	67.724	565	.120		
Total	69.106	574	.120		

TABLE 64
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JDUGE FOR YOUTH REPRESENTED BY RETAINED COUNSEL (N=91)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.397	9	.044	.777	.638
JUDID	.397	9	.044	.777	.638
Explained	.397	9	.044	.777	.638
Residual	4.592	81	.057		
Total	4.989	90	.055		

TABLE 65
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY LEGAL AID (N=216)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.494	8	.187	1.137	.340
JUDID	1.494	8	.187	1.137	.340
Explained	1.494	8	.187	1.137	.340
Residual	33.827	206	.164		
Total	35.321	214	.165		

TABLE 66
RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY OTHER COUNSEL (N=3)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.000	2	.000		
JUDID	.000	2	.000		
Explained	.000	2	.000		
Residual	.000	0	.000		
Total	.000	2	.000		

TABLE 67

RESULTS OF ANOVA FOR EXPLAINING CRIMINAL CHARGE BY JUDGE FOR YOUTH REPRESENTED BY AGENT FOR RETAINED COUNSEL (N=21)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.776	6	.296	1.231	.348
JUDID	1.776	6	.296	1.231	.348
Explained	1.776	6	.296	1.231	.348
Residual	3.367	14	.240		
Total	5.143	20	.257		

TABLE 68

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE BY PRIOR RECORD (N=791)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	6.716	10	.672	4.089	.000
JUDID	1.393	9	.155	.942	.487
PRIOR RECORD	4.827	1	4.827	29.390	.000
TWO WAY INTER	1.430	8	.179	1.088	.369
Explained	8.145	18	.453	2.755	.000
Residual	126.295	769	.164		
Total	134.440	787	.171		

TABLE 69
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH A PRIOR RECORD
(N=136)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.190	8	.149	.893	.525
JUDID	1.190	8	.149	.893	.525
Explained	1.190	8	.149	.893	.525
Residual	21.002	126	.167		
Total	22.193	134	.166		

TABLE 70
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH NO PRIOR RECORD
(N=265)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.952	8	.119	.946	.479
JUDID	.952	8	.119	.946	.479
Explained	.952	8	.119	.946	.479
Residual	32.078	255	.126		
Total	33.030	263	.126		

TABLE 71
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE BY LEGAL REPRESENTATION (N=791)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	11.643	10	1.164	7.375	.000
JUDID	1.515	9	.168	1.066	.386
REP	9.753	1	9.753	61.777	.000
TWO WAY INTER	2.025	8	.253	1.604	.120
Explained	13.668	18	.759	4.810	.000
Residual	120.769	765	.158		
Total	134.437	783	.172		

TABLE 72
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH LEGAL REPRESENTATION (N=577)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.087	9	.121	.876	.546
JUDID	1.087	9	.121	.876	.546
Explained	1.087	9	.121	.876	.546
Residual	77.911	565	.138		
Total	78.998	574	.138		

TABLE 73
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH WITH NO LEGAL REPRESENTATION (N=210)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	2.453	8	.307	1.431	.186
JUDID	2.453	8	.307	1.431	.186
Explained	2.453	8	.307	1.431	.186
Residual	42.858	200	.214		
Total	45.311	208	.218		

TABLE 74
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE BY TYPE OF LEGAL REPRESENTATION (N=791)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	10.215	13	.786	6.291	.000
JUDID	1.715	9	.191	1.526	.136
REPTYPE	9.246	4	2.311	18.506	.000
TWO WAY INTER	3.104	25	.124	.994	.473
Explained	13.320	38	.351	2.806	.000
Residual	62.325	499	.125		
Total	75.645	537	.141		

TABLE 75

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY DUTY COUNSEL (N=209)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.864	9	.207	1.721	.086
JUDID	1.864	9	.207	1.721	.086
Explained	1.864	9	.207	1.721	.086
Residual	23.829	198	.120		
Total	25.692	207	.124		

TABLE 76

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY RETAINED COUNSEL (N=91)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.408	9	.045	.558	.828
JUDID	.408	9	.045	.558	.828
Explained	.408	9	.045	.558	.828
Residual	6.581	81	.081		
Total	6.989	90	.078		

TABLE 77

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY LEGAL AID (N=216)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.772	8	.097	.697	.694
JUDID	.772	8	.097	.697	.694
Explained	.772	8	.097	.697	.694
Residual	28.549	206	.139		
Total	29.321	214	.137		

TABLE 78

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY OTHER COUNSEL (N=3)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.000	2	.000		
JUDID	.000	2	.000		
Explained	.000	2	.000		
Residual	.000	0	.000		
Total	.000	2	.000		

TABLE 79
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND CRIMINAL CHARGES BY JUDGE FOR YOUTH REPRESENTED BY AGENT FOR RETAINED COUNSEL. (N=21)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.776	6	.296	1.231	.348
JUDID	1.776	6	.296	1.231	.348
Explained	1.776	6	.296	1.231	.348
Residual	3.367	14	.240		
Total	5.143	20	.257		

TABLE 80
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE BY PRIOR RECORD (N=791)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.798	10	.180	2.039	.027
JUDID	1.042	9	.116	1.313	.226
PRIOR RECORD	.632	1	.632	7.166	.088
TWO WAY INTER	.151	8	.019	.214	.988
Explained	1.949	18	.108	1.228	.231
Residual	67.813	769	.088		
Total	69.761	787	.089		

TABLE 81

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH WITH A PRIOR RECORD (N=136)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.062	8	.008	.514	.844
JUDID	.062	8	.008	.514	.844
Explained	.062	8	.008	.514	.844
Residual	1.908	126	.015		
Total	1.970	134	.015		

TABLE 82

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH WITH NO PRIOR RECORD (N=265)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.767	8	.096	1.506	.155
JUDID	.767	8	.096	1.506	.155
Explained	.767	8	.096	1.506	.155
Residual	16.229	255	.064		
Total	16.996	263	.065		

TABLE 83
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE BY LEGAL REPRESENTATION (N=791)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	2.410	10	.241	2.766	.002
JUDID	1.095	9	.122	1.397	.185
REP	1.245	1	1.245	14.286	.000
TWO WAY INTER	.687	8	.086	.986	.445
Explained	3.098	18	.172	1.975	.009
Residual	66.652	765	.087		
Total	69.750	783	.089		

TABLE 84
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH WITH LEGAL REPRESENTATION (N=577)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.933	9	.104	1.074	.380
JUDID	.933	9	.104	1.074	.380
Explained	.933	9	.104	1.074	.380
Residual	54.545	565	.097		
Total	55.478	574	.097		

TABLE 85
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH WITH NO LEGAL REPRESENTATION (N=210)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.850	8	.106	1.755	.088
JUDID	.850	8	.106	1.755	.088
Explained	.850	8	.106	1.755	.088
Residual	12.107	200	.061		
Total	12.957	208	.062		

TABLE 86
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH REPRESENTED BY RETAINED COUNSEL (N=91)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.397	9	.044	.777	.638
JUDID	.397	9	.044	.777	.638
Explained	.397	9	.044	.777	.638
Residual	4.592	81	.057		
Total	4.989	90	.055		

TABLE 87
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH REPRESENTED BY LEGAL AID (N=216)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.885	8	.111	.877	.536
JUDID	.885	8	.111	.877	.536
Explained	.885	8	.111	.877	.536
Residual	25.971	206	.126		
Total	26.856	214	.125		

TABLE 88
RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH REPRESENTED BY OTHER COUNSEL (N=3)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	.000	2	.000		
JUDID	.000	2	.000		
Explained	.000	2	.000		
Residual	.000	0	.000		
Total	.000	2	.000		

TABLE 89

RESULTS OF ANOVA FOR DETERMINING WHETHER YOUTH UNDERSTAND THE DIFFERENCE BETWEEN GUILTY AND NOT GUILTY BY JUDGE FOR YOUTH REPRESENTED BY AGENT FOR RETAINED COUNSEL (N=21)

Source of Var	Sum of Squares	DF	Mean Square	F	Sig of F
Main Effects	1.776	6	.296	1.231	.348
JUDID	1.776	6	.296	1.231	.348
Explained	1.776	6	.296	1.231	.348
Residual	3.367	14	.240		
Total	5.143	20	.257		